

Chapter 388-865 WAC
COMMUNITY MENTAL HEALTH AND INVOLUNTARY TREATMENT PROGRAMS

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WAC

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WAC 388-865-0100 Purpose. Chapter 388-865 of the Washington Administrative Code implements chapters 71.05, 71.24, and 71.34 RCW, and the mental health Title XIX Section 1915 (b) Medicaid waiver provisions.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0100, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0105 What the mental health division does and how it

is organized. (1) The department of social and health services is designated by the legislature as the state mental health authority, and has designated the mental health division to administer the state mental health program.

(2) To request an organizational chart, contact the mental health division at 1-888-713-6010 or (360) 902-8070, or write to the Mental Health Division Director, PO Box 45320, Olympia, WA 98504.

(3) Local services are administered by regional support networks (RSN), which are a county, or combination of counties, whose telephone number is located in the local telephone directory and can also be obtained by calling the mental health division at the above telephone number.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0105, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0110 Access to records of registration. The mental health division, regional support networks, mental health prepaid health plans, and service providers must ensure that information about the fact that a consumer has or is receiving mental health services is not shared or released except as specified under [RCW 71.05.390](#) and other laws and regulations about confidentiality as noted below in [WAC 388-865-0115](#).

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0110, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0115 Access to clinical records. There are numerous federal and state rules and regulations on the subjects of confidentiality and access to consumer clinical records. Many of the rules are located in [chapter 70.02 RCW](#), [RCW 71.05.390](#), [71.05.400](#), [71.05.410](#), [71.05.420](#), [71.05.430](#), [71.05.440](#), [71.05.445](#), [71.05.610](#) through [71.05.680](#), [71.34.160](#), [71.34.162](#), [71.34.170](#), [71.34.200](#), [71.34.210](#), [71.34.220](#), [71.34.225](#), [13.50.100\(4\)\(b\)](#), and [42 C.F.R. 431](#) and [438](#), and [42 C.F.R. Part 2](#) of the Code of Federal Regulations and are not repeated in these rules.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0115, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0120 Waiver of a minimum standard of this chapter.

(1) A regional support network, mental health prepaid health plan, service provider or applicant subject to the rules in this chapter may request a waiver of any sections or subsections of these rules by submitting a request in writing to the director of the mental health division. The request must include:

(a) The name and address of the entity that is making the request;

(b) The specific section or subsection of these rules for

which a waiver is being requested;

(c) The reason why the waiver is necessary, or the method the entity will use to meet the desired outcome of the section or subsection in a more effective and efficient manner;

(d) A description of the plan and timetable to achieve compliance with the minimum standard or to implement, test, and report results of an improved way to meet the intent of the section or subsection. In no case will the mental health division write a waiver of minimum standards for more than the time period of the entity's current license and/or certificate.

(2) For agencies contracting with a regional support network or mental health prepaid health plan, a statement by the regional support network or mental health prepaid health plan recommending mental health division approval of the request, including:

(a) Recommendations, if any, from the quality review team or ombuds staff; and

(b) A description of how consumers will be notified of changes made as a result of the exception.

(3) The mental health division makes a determination on the waiver request within thirty days from date of receipt. The review will consider the impact on accountability, accessibility, efficiency, consumer satisfaction, and quality of care and any violations of the request with state or federal law.

(4) When granting the request, the mental health division issues a notice to the person making the request, and the involved regional support network if the regional support network is not the applicant, that includes:

(a) The section or subsection waived;

(b) The conditions of acceptance;

(c) The timeframe for which the waiver is approved;

(d) Notification that the agreement may be reviewed by the mental health division and renewed, if requested.

(5) When denying the request, the mental health division includes the reason for the decision in the notice sent to the person making the request.

(6) The mental health division does not waive any requirement that is part of statute.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0120, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0150 Definitions. "Adult" means a person on or after their eighteenth birthday. For persons eligible for the Medicaid program, adult means a person on or after his/her twenty-first birthday.

"Child" means a person who has not reached his/her eighteenth birthday. For persons eligible for the Medicaid program, child means a person who has not reached his/her twenty-first birthday.

"Clinical services" means those direct age and culturally appropriate consumer services which either:

(1) Assess a consumer's condition, abilities or problems;

(2) Provide therapeutic interventions which are designed to

ameliorate psychiatric symptoms and improve a consumer's functioning.

"Consumer" means a person who has applied for, is eligible for or who has received mental health services. For a child, under the age of thirteen, or for a child age thirteen or older whose parents or legal guardians are involved in the treatment plan, the definition of consumer includes parents or legal guardians.

"Consultation" means the clinical review and development of recommendations regarding the job responsibilities, activities, or decisions of, clinical staff, contracted employees, volunteers, or students by persons with appropriate knowledge and experience to make recommendations.

"Cultural competence" means a set of congruent behaviors, attitudes, and policies that come together in a system or agency and enable that system or agency to work effectively in cross-cultural situations. A culturally competent system of care acknowledges and incorporates at all levels the importance of language and culture, assessment of cross-cultural relations, knowledge and acceptance of dynamics of cultural differences, expansion of cultural knowledge and adaptation of services to meet culturally unique needs.

"Ethnic minority" or "racial/ethnic groups" means, for the purposes of this chapter, any of the following general population groups:

- (1) African American;
- (2) An American Indian or Alaskan native, which includes:
 - (a) A person who is a member of considered to be a member in a federally recognized tribe;
 - (b) A person determined eligible to be found Indian by the secretary of interior, and
 - (c) An Eskimo, Aleut, or other Alaskan native.
 - (d) A Canadian Indian, meaning a person of a treaty tribe, Metis community, or nonstatus Indian community from Canada.
 - (e) An unenrolled Indian meaning a person considered Indian by a federally or nonfederally recognized Indian tribe or off reservation Indian/Alaskan native community organization.
- (3) Asian/Pacific Islander; or
- (4) Hispanic.

"Medical necessity" or "medically necessary" - A term for describing a requested service which is reasonably calculated to prevent, diagnose, correct, cure, alleviate or prevent the worsening of conditions in the recipient that endanger life, or cause suffering or pain, or result in illness or infirmity, or threaten to cause or aggravate a handicap, or cause or physical deformity or malfunction, and there is no other equally effective, more conservative or substantially less costly course of treatment available or suitable for the person requesting service. For the purpose of this chapter "course of treatment" may include mere observation or, where appropriate, no treatment at all.

"Mental health division" means the mental health division of the Washington state department of social and health services (DSHS). DSHS has designated the mental health division as the state

mental health authority to administer the state and Medicaid funded mental health program authorized by chapter 71.05, 71.24, and 71.34 RCW.

"Mental health professional" means:

(1) A psychiatrist, psychologist, psychiatric nurse or social worker as defined in chapter 71.05 and 71.34 RCW;

(2) A person with a masters degree or further advanced degree in counseling or one of the social sciences from an accredited college or university. Such person shall have, in addition, at least two years of experience in direct treatment of persons with mental illness or emotional disturbance, such experience gained under the supervision of a mental health professional;

(3) A person who meets the waiver criteria of [RCW 71.24.260](#), which was granted prior to 1986.

(4) A person who had an approved waiver to perform the duties of a mental health profession that was requested by the regional support network and granted by the mental health division prior to July 1, 2001; or

(5) A person who has been granted a time-limited exception of the minimum requirements of a mental health professional by the mental health division consistent with [WAC 388-865-265](#).

"Mental health specialist" means:

(1) A **"child mental health specialist"** is defined as a mental health professional with the following education and experience:

(a) A minimum of one hundred actual hours (not quarter or semester hours) of special training in child development and the treatment of children and youth with serious emotional disturbance and their families; and

(b) The equivalent of one year of full-time experience in the treatment of seriously emotionally disturbed children and youth and their families under the supervision of a child mental health specialist.

(2) A **"geriatric mental health specialist"** is defined as a mental health professional who has the following education and experience:

(a) A minimum of one hundred actual hours (not quarter or semester hours) of specialized training devoted to the mental health problems and treatment of persons sixty years of age or older; and

(b) The equivalent of one year of full-time experience in the treatment of persons sixty years of age or older, under the supervision of a geriatric mental health specialist.

(3) An **"ethnic minority mental health specialist"** is defined as a mental health professional who has demonstrated cultural competence attained through major commitment, ongoing training, experience and/or specialization in serving ethnic minorities, including evidence of one year of service specializing in serving the ethnic minority group under the supervision of an ethnic minority mental health specialist; and

(a) Evidence of support from the ethnic minority community attesting to the person's commitment to that community; or

(b) A minimum of one hundred actual hours (not quarter or

semester hours) of specialized training devoted to ethnic minority issues and treatment of ethnic minority consumers.

(4) A **"disability mental health specialist"** is defined as a mental health professional with special expertise in working with an identified disability group. For purposes of this chapter only, **"disabled"** means an individual with a disability other than a mental illness, including a developmental disability, serious physical handicap, or sensory impairment.

(a) If the consumer is deaf, the specialist must be a mental health professional with:

(i) Knowledge about the deaf culture and psychosocial problems faced by people who are deaf; and

(ii) Ability to communicate fluently in the preferred language system of the consumer.

(b) The specialist for consumers with developmental disabilities must be a mental health professional who:

(i) Has at least one year's experience working with people with developmental disabilities; or

(ii) Is a developmental disabilities professional as defined in [RCW 71.05.020](#).

"Older person" means an adult who is sixty years of age or older.

"Service recipient" means for the purposes of a mental health prepaid health plan, a consumer eligible for the Title XIX Medicaid program.

"Substantial hardship" means that a consumer will not be billed for emergency involuntary treatment if he or she meets the eligibility standards of the medically indigent program that is administered by the DSHS medical assistance administration.

"Supervision" means monitoring of the administrative, clinical, or clerical work performance of staff, students, volunteers, or contracted employees by persons with the authority to give direction and require change.

"Underserved" means consumers who are:

(1) Minorities;

(2) Children;

(3) Older adults;

(4) Disabled; or

(5) Low-income persons.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0150, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0200 Regional support networks. The mental health division contracts with certified regional support networks to administer all mental health services activities or programs within their jurisdiction using available resources. The regional support network must ensure services are responsive in an age and culturally competent manner to the mental health needs of its community. To gain and maintain certification, the regional support network must comply with all applicable federal, state and local laws and regulations, and all of the minimum standards of this

section. The community mental health program administered by the regional support network includes the following programs:

- (1) Administration of the involuntary treatment program, including investigation, detention, transportation, court related and other services required by chapter 71.05 and 71.34 RCW;
- (2) Resource management program as defined in [RCW 71.24.025](#) (15) and this section;
- (3) Community support services as defined in [RCW 71.24.025](#) (7);
- (4) Residential and housing services as defined in [RCW 71.24.025](#) (14);
- (5) Ombuds services;
- (6) Quality review teams;
- (7) Inpatient services as defined in chapter 71.05 and 71.34 RCW; and
- (8) Services operated or staffed by consumers, former consumers, family members of consumers, or other advocates. If the service is clinical, the service must comply with the requirements for licensed services. Consumer or advocate run services may include, but are not limited to:
 - (a) Consumer and/or advocate operated businesses;
 - (b) Consumer and/or advocate operated and managed clubhouses;
 - (c) Advocacy and referral services;
 - (d) Consumer and/or advocate operated household assistance programs;
 - (e) Self-help and peer support groups;
 - (f) Ombuds service; and
 - (g) Other services.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0200, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0201 Allocation of funds to RNS/PHPs. This section describes how Medicaid and community mental health funds are allocated to the RSN/PHPs.

(1) Funding allocations are projected at the beginning of each fiscal year, using forecasted Medicaid enrollees for that fiscal year.

(2) Payments are made on the number of actual Medicaid enrollees each month, which may result in actual payments being higher or lower than projected payments, depending on whether actual Medicaid enrollees are more or less than forecasted enrollees.

(3) The mental health division (MHD) uses two different methodologies to allocate funds:

- (a) Historical method;
- (b) Eligibles method.

(4) For the period July 1, 2001 to June 30, 2005, the funds will be allocated using the methodologies as follows:

(a) For July 1, 2001 to June 30, 2002, seventy-five percent of funds will be allocated using the historical method and twenty-five percent of funds will be allocated using the prevalence method;

(b) For June 1, 2002 to June 30, 2003, fifty percent of funds will be allocated using the historical method and fifty percent of funds will be allocated using the prevalence method;

(c) For June 1, 2003 to June 30, 2004, twenty-five percent of funds will be allocated using the historical method and seventy-five percent of funds will be allocated using the prevalence method;

(d) For June 1, 2004 forward, one hundred percent of funds will be allocated using the prevalence method. These percentages will remain in effect unless the department is directed otherwise by the state Legislature.

(5)(a) Historical method means that federal Medicaid funds projected to be paid to the RSN/PHPs are calculated using actuarially determined per member per month (PMPM) rates specific to each regional support network multiplied by the number of persons enrolled in the Medicaid program in each regional support network for each month during the fiscal year.

(b) The actuarially determined rates were determined at the beginning of the managed care program (1992 for outpatient services and 1997 for inpatient services) and have been increased periodically by the Legislature.

(i) Rates differ by RSN and by category of enrollee (disabled and nondisabled adults and disabled and nondisabled children).

(ii) These rates are tracked by MHD.

(iii) The number of Medicaid enrollees is tracked by the medical assistance administration.

(c) The product of rates and enrollees is the projected amount of Medicaid funding each RSN/PHP will receive during the year.

(i) This amount is divided into two portions - federal funds and state match funds.

(ii) The two portions of Medicaid funds are determined by a percentage known as the Federal Medicaid Assistance Percentage (FMAP). This percentage is set by the federal Health Care Financing Authority and changes each year.

(d) In the inpatient program, each RSN/PHP is allocated the amount of federal and state funds projected in the calculations explained above.

(e) State funds in the outpatient program (also called "consolidated") to be paid to the RSN/PHPs are set by the Legislature. These funds are allocated to the RSN/PHPs according to the RSN/PHP's calculated percentage of the total funds. The RSN/PHP's percentage is based primarily on historical fee-for-service data.

(i) The RSN/PHP percentages are tracked by MHD and are carried forward each year.

(ii) The percentage of consolidated funds paid to each RSN/PHP is adjusted each year by the Legislature through budget proviso direction, generally requiring that new funds in the program be allocated according to Medicaid enrollees in each RSN. Therefore, the amount of consolidated funds in the outpatient program at the beginning of the fiscal year (also called "base funds") are allocated according to the percentage tracked by MHD (put in place by the Legislature in the previous year).

(iii) New consolidated funds are allocated as directed by the Legislature, generally according to the number of Medicaid enrollees residing in each RSN.

(f) The base allocation and new consolidated allocations are combined into one percentage that serves as the RSN/PHP's percentage allocation for the next year's base funds.

(g) The sum of federal Medicaid funds, state match funds in the inpatient program, and consolidated funds equals the amount of funding provided to each RSN/PHP.

(6) Eligibles method.

(a) Medicaid and non-Medicaid funds are allocated based on a formula that reflects prevalence of mental disorders in each county. The formula takes into consideration each RSN's:

(i) Concentrations of priority populations;

(ii) Commitments to state hospitals under chapter 71.05 and 71.34 RCW;

(iii) Population concentrations in urban areas;

(iv) Population concentrations at border crossings at state boundaries; and

(v) Other demographic and workload factors such as number of MI/GA-U clients, commitments to community hospitals under chapter 71.05 and 71.34 RCW, and number of homeless persons.

(b) The RSN/PHP historical method rates for 2001 have been used to calculate a weighted average statewide rate (WASR) for each category of Medicaid eligible (disabled and nondisabled adults and disabled and nondisabled children).

(c) The WASR for each category is determined by:

(i) Adding the RSN/PHP's inpatient and outpatient rates to create one combined rate;

(ii) Multiplying each RSN/PHP's rate by the number of Medicaid enrollees residing in that RSN/PHP;

(iii) Adding the results; and

(iv) Dividing the sum by the state-wide number of Medicaid eligibles.

(d) WASR rates are tracked by MHD.

(e) The number of Medicaid enrollees is tracked by the medical assistance administration.

(f) To project the amount of Medicaid funding each RSN/PHP will receive during the year, MHD multiplies the RSN/PHP's WASR for each category by the projected number of Medicaid enrollees in each category.

(i) This amount is divided into two portions - federal funds and state match funds.

(ii) Each RSN/PHP's projected allocation includes both portions of Medicaid funding (federal and state match funds).

(iii) Payments to the RSN/PHP are made based on the actual number of Medicaid enrollees.

(g) The level of non-Medicaid funds appropriated to the community mental health services program is determined by the state Legislature.

(i) Eighty percent of the non-Medicaid funds appropriated are allocated to the RSN/PHPs according to the number persons enrolled in the state funded general assistance - unemployable, medically

indigent and state only "v" programs (persons in the state only "v" program are counted at thirteen percent of the total enrolled).

(A) The number of persons enrolled in these programs is tracked by the medical assistance administration.

(B) The projected number of persons in these programs residing in each RSN, divided by the total persons projected to be in these programs, is multiplied by eighty percent of the total funds appropriated to determine the amount of funding provided to each RSN/PHP.

(ii) Twenty percent of the non-Medicaid funds appropriated are allocated according to a summary z score factor that is calculated using four sub-factors:

(A) The number of urban counties in each RSN;

(B) The number of state and country border counties in each RSN;

(C) The number of homeless persons in each RSN; and

(D) The number of ITA commitments from each RSN.

These sub-factors are weighted differently, with the urban factor weighted at 0.3, the border county factor weighted at 0.05, the homeless factor weighted at 1.0 and the ITA commitments factor weighted at 0.2. For each of these factors, information is tracked by MHD and the most recent complete year of data is used to calculate z score factors for each sub-factor. These factors are combined into a summary z score factor for each RSN that is multiplied by the total funding available (twenty percent of non-Medicaid funds appropriated).

(7) The mental health division does not pay providers on a fee-for-service basis for services that are the responsibility of the mental health RSN or PHP, even if the RSN or PHP has not paid for the service for any reason.

(8) To the extent authorized by the state legislature, regional support networks and mental health prepaid health plans may use local funds spent on health services to increase the collection of federal Medicaid funds. Local funds used for this purpose may not be used as match for any other federal funds or programs.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0201, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0203 Allocation formula for state hospital beds.

The mental health division (MHD) allocates nonforensic adult beds at the state hospital utilized by the regional support network (RSN) based on the number of beds funded by the Legislature at that hospital.

(1) The allocation formula is $(M \times 40\%) + (U \times 35\%) + (P \times 25\%) \times F$.

(a) M is the average number of Medicaid eligible persons in the RSN during the period of January to December prior to the start of the biennium, divided by the average number of Medicaid eligible persons at each state hospital catchment area (westside for western state hospital and eastside for eastern state hospital) during the

same period;

(b) U is the number of each regional support network's average daily census at the state hospital during the period of January to December prior to the start of each biennium divided by the average daily census at the hospital based on the utilization of beds by the regional support network included in the hospital catchment area during the same period;

(c) P is the percent of the general population that resides within the RSN based on the most recent population estimate on December 1 of the year prior to the start of the biennium divided by the general population in the hospital catchment area at the same time;

(d) F is the total number of funded nonforensic beds at each state hospital (westside for western state hospital and eastside for eastern state hospital);

(e) The MHD will project and distribute tentative allocations upon issuance of the Governor's budget, and upon enactment of the Legislative budget. The operative allocation will be made and distributed at the start of each fiscal year.

(2) This formula will be phased in as follows:

(a) For July 1, 2001 to June 30, 2002, twenty five percent of the bed allocation will be based on the new formula, and seventy five percent based on the 1999-2001 allocation;

(b) For July 1, 2002 to June 30, 2003, fifty percent of the allocation will be based on the new formula and fifty percent based on the 1999-2001 allocation;

(c) For July 1, 2003 to June 30, 2004, seventy-five percent of the allocation will be based on the new formula and twenty-five percent based on the 1999-2001 allocation;

(d) For July 1, 2004 to June 30, 2005 one hundred percent of the allocation will be based on the new formula;

(e) The formula will be recalculated on or about April 4, 2005 and each biennium thereafter based on data that is current at that time.

(3) If the in-residence census exceeds the funded capacity on any day or days within the fiscal year, the MHD will assess liquidated damages calculated on the following formula:

(a) Only RSNs who are in excess of their individual allocated census on the day or each day of over census will be assessed liquidated damages;

(b) The amount of liquidated damages charged for each day will be the number of beds over the funded capacity of the hospital multiplied by the state hospital daily bed charge consistent with [RCW 43.20B.325](#);

(c) The amount of liquidated damages charged to each RSN will be a percentage based on the number of beds over their allocation divided by the total number of beds over the funded capacity on the day or each day of over census;

(d) The liquidated damages will be recovered by the MHD by a deduction from the monthly payment made by the MHD two months after the end of the month in which the in residence census exceeded the state bed allocation of that RSN.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0203, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0205 Initial certification of a regional support network.

A regional support network is a county authority or group of county authorities that have a joint operating agreement. In order to gain certification as a regional support network, a county or group of counties must submit to the department:

- (1) A statement of intent to become a regional support network;
 - (2) Documentation that the total population in the county or group of counties is not less than forty thousand;
 - (3) A joint operating agreement if the proposed regional support network is more than one county or includes a tribal authority. The agreement must include the following:
 - (a) Identification of a single authority with final responsibility for all available resources and performance of the contract with the department consistent with chapter 71.05, 71.24, and 71.34 RCW;
 - (b) Assignment of all responsibilities required by [RCW 71.24.300](#); and
 - (c) Participation of tribal authorities in the agreement at the request of the tribal authorities.
 - (d) A preliminary operating plan completed according to departmental guidelines.
- (4) Within thirty days of the submission the department will provide a written response either:
- (a) Certifying the regional support network; or
 - (b) Denying certification because the requirements are not met.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0205, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0210 Renewal of regional support network certification.

At least biennially the mental health division reviews the compliance of each regional support network with the statutes, applicable rules and regulations, applicable standards, and state minimum standards as defined in this chapter:

- (1) If the regional support network is in compliance with the statutes, applicable rules and regulations, applicable standards, and state minimum standards, the mental health division provides the regional support network with a written certificate of compliance.
- (2) If the regional support network is not in compliance with the statutes, applicable rules and regulations, the mental health division will provide the regional support network written notice of the deficiencies. In order to maintain certification, the regional support network must develop a plan of corrective action approved by the mental health division.

(3) If the regional support network fails to develop an approved plan of corrective action or does not complete implementation of the plan within the timeframes specified, the mental health division may initiate procedures to suspend, revoke, limit, or restrict certification consistent with the provisions of [RCW 71.24.035](#) (7) through (11) and of 43.20A.205. The mental health division sends a written decision to revoke, suspend, or modify the former certification, with the reasons for the decision and informing the regional support network of its right to an administrative hearing.

(4) The mental health division may suspend or revoke the certification of a regional support network immediately if the mental health division determines that deficiencies imminently jeopardize the health and safety of consumers.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0210, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0215 Consumer eligibility and payment for services.

(1) Within available resources as defined in [RCW 71.24.025](#)(2), the regional support network must serve consumers in the following order of priority as defined in [RCW 71.24.035](#) (5)(b):

- (a) Acutely mentally ill persons;
- (b) Chronically mentally ill adults and severely emotionally disturbed children;
- (c) Seriously disturbed persons.

(2) Consumers eligible for the Title XIX Medicaid program are entitled to receive covered medically necessary services from a mental health prepaid health plan without charge to the consumer;

(3) The consumer or the parent(s) of a child who has not reached their eighteenth birthday, the legal guardian, or the estate of the consumer is responsible for payment for services provided. The consumer may apply to the following entities for payment assistance:

- (a) DSHS for medical assistance;
- (b) The community support provider for payment responsibility based on a sliding fee scale; or
- (c) The regional support network for authorization of payment for involuntary evaluation and treatment services for consumers who would experience a substantial hardship as defined in [WAC 388-865-0150](#).

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0215, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0220 Standards for administration. The regional support network must demonstrate that it meets the requirements of chapter 71.05, 71.24, and 71.34 RCW, and ensures the effectiveness and cost effectiveness of community mental health services in an age and culturally competent manner. The regional support network must:

(1) Establish a governing board that includes, where applicable, representation from tribal authorities, consistent with [RCW 71.24.300](#);

(2) For multi-county regional support networks, function as described in the regional support network joint operating agreement;

(3) Ensure the protection of consumer and family rights as described in this chapter, and chapter 71.05 and 71.34 RCW; and other applicable statutes for consumers involved in multiservice systems;

(4) Collaborate with and make reasonable efforts to obtain and use resources in the community to maximize services to consumers;

(5) Educate the community regarding mental illness to diminish stigma;

(6) Maintain agreement(s) with sufficient numbers of certified involuntary inpatient evaluation and treatment facilities to ensure that persons eligible for regional support network services have access to inpatient care;

(7) Develop publicized forums in which to seek and include input about service needs and priorities from community stakeholders, including:

- (a) Consumers;
- (b) Family members and consumer advocates;
- (c) Culturally diverse communities including consumers who have limited English proficiency;
- (d) Service providers;
- (e) Social service agencies;
- (f) Organizations representing persons with a disability;
- (g) Tribal authorities; and
- (h) Underserved groups.

(8) Maintain job descriptions for regional support staff with qualifications for each position with the education, experience, or skills relevant to job requirements; and

(9) Provide orientation and ongoing training to regional support network staff in the skills pertinent to the position and the treatment population, including age and culturally competent consultation with consumers, families, and community members.

(10) Identify trends and address service gaps;

(11) The regional support network must provide an updated two-year plan biennially to the mental health division for approval consistent with the provisions of [RCW 71.24.300](#)(1). The biennial plan must be submitted to the regional support network governing board for approval and to the advisory board for review and comment.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0220, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0221 Public awareness of mental health services.

The regional support network or its designee must provide public information on the availability of mental health services. The regional support network must:

(1) Maintain listings of services in telephone directories and other public places such as libraries, community services offices, juvenile justice facilities, of the service area. The regional support network or its designee must prominently display listings for crisis services in telephone directories;

(2) Publish and disseminate brochures and other materials or methods for describing services and hours of operation that are appropriate for all individuals, including those who may be visually impaired, limited-English proficient, or unable to read;

(3) Post and make information available to consumers regarding the ombuds service consistent with [WAC 388-865-0250](#), and local advocacy organizations that may assist consumers in understanding their rights.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0221, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0222 Advisory board. The regional support network must promote active engagement with persons with mental disorders, their families and services providers by soliciting and using their input to improve its services. The regional support network must appoint an advisory board that:

(1) Is broadly representative of the demographic character of the region and the ethnicity and broader cultural aspects of consumers served;

(2) Is composed of at least fifty-one percent:

(a) Current consumers or past consumers of public mental health services, including those who are youths, older adults, or who have a disability; and

(b) Family, foster family members, or care givers of consumers, including parents of emotionally disturbed children.

(3) Independently reviews and provides comments to the regional support network governing board on plans, budgets, and policies developed by the regional support network to implement the requirements of this section, chapter 71.05, 71.24, 71.34 RCW and applicable federal law and regulations.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0222, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0225 Resource management. The regional support network must establish mechanisms which maximize access to and use of age and culturally competent mental health services, and ensure eligible consumers receive appropriate levels of care. The regional support network must:

(1) Authorize admission, transfers and discharges for eligible consumers into and out of the following services:

(a) Community support services;

(b) Residential services; and

(c) Inpatient evaluation and treatment services.

(2) Ensure that services are provided according to the

consumer's individualized service plan;

(3) Not require preauthorization of emergency services and transportation for emergency services that are required by an eligible consumer;

(4) Identify in the agreement with the mental health division any of these duties it has delegated to a subcontractor.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0225, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0229 Inpatient services. The regional support network must develop and implement age and culturally competent services that are consistent with chapter 71.24, 71.05, and 71.34 RCW. The regional support network must:

(1) For voluntary inpatient services: Develop and implement formal agreements with inpatient services funded by the regional support network regarding:

- (a) Referrals;
- (b) Admissions; and
- (c) Discharges.

(2) For involuntary evaluation and treatment services:

(a) Maintain agreements with sufficient numbers of certified involuntary evaluation and treatment facilities to ensure that consumers eligible for regional support network services have access to involuntary inpatient care. The agreements must address regional support network responsibility for discharge planning;

(b) Determine which service providers on whose behalf the regional support network will apply on behalf of for certification by the mental health division;

(c) Ensure that all service providers or its subcontractors that provide evaluation and treatment services are currently certified by the mental health division and licensed by the department of health;

(d) Ensure periodic reviews of the evaluation and treatment service facilities consistent with regional support network procedures and notify the appropriate authorities if it believes that a facility is not in compliance with applicable statutes, rules and regulations.

(3) Authorize admissions, transfers and discharges into and out of inpatient evaluation and treatment services for eligible consumers including:

- (a) State psychiatric hospitals:
 - (i) Western state hospital;
 - (ii) Eastern state hospital;
 - (iii) Child study and treatment center.
- (b) Community hospitals;

(c) Residential inpatient evaluation and treatment facilities licensed by the department of health as adult residential rehabilitation centers; and

(d) Children's long-term inpatient program.

(4) Receive prior approval from the mental health division in the form of a single bed certification for services to be provided

to consumers on a ninety- or one hundred eighty-day community inpatient involuntary commitment order consistent with the exception criteria in [WAC 388-865-0502](#); and

(5) Identify in the agreement with the mental health division any of these duties is has delegated to a subcontractor.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0229, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0230 Community support services. The regional support network must develop and coordinate age and culturally competent community support services that are consistent with chapter 71.24, 71.05, and 71.34 RCW:

(1) Provide the following services directly, or contract with sufficient numbers and variety of licensed and/or certified service providers to ensure that persons eligible for regional support network services have access to at least the following services:

- (a) Emergency crisis intervention services;
- (b) Case management services;
- (c) Psychiatric treatment including medication supervision;
- (d) Counseling and psychotherapy services;
- (e) Day treatment services as defined in [RCW 71.24.300](#)(5) and [71.24.035](#)(7); and
- (f) Consumer employment services as defined in [RCW 71.24.035](#) (5)(e).

(2) Conduct prescreening determinations for providing community support services for persons with mental illness who are being considered for placement in nursing homes ([RCW 71.24.025](#)(7) and [71.24.025](#)(9)); and

(3) Complete screening for persons with mental illness who are being considered for admission to residential services funded by the regional support network ([RCW 71.24.025](#) and [71.24.025](#)(9)).

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0230, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0235 Residential and housing services. The regional support network must ensure:

(1) Active promotion of consumer access to, and choice in, safe and affordable independent housing that is appropriate to the consumer's age, culture, and residential needs.

(2) Provision of services to families of eligible children and to eligible consumers who are homeless or at imminent risk of becoming homeless as defined in Public Law 100-77, through outreach, engagement and coordination or linkage of services with shelter and housing.

(3) The availability of community support services, with an emphasis supporting consumers in their own home or where they live in the community, with residences and residential supports prescribed in the consumer's treatment plan. This includes a full range of residential services as required in [RCW 71.24.025](#) (7) and

(14); and chapter 71.24.025(14) RCW.

(4) That eligible consumers in residential facilities receive mental health services consistent with their individual service plan, and are advised of their rights, including long-term care rights ([chapter 70.129 RCW](#)).

(5) If supervised residential services are needed they are provided only in licensed facilities:

(a) An adult family home that is licensed under [chapter 388-76 WAC](#).

(b) A boarding home facility that is licensed under [chapter 388-78A WAC](#).

(c) An adult residential rehabilitative center facility that is licensed under [chapter 246-325 WAC](#).

(6) The active search of comprehensive resources to meet the housing needs of consumers.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0235, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0240 Consumer employment services. The regional support network must coordinate with rehabilitation and employment services to assure that consumers wanting to work are provided with employment services consistent with [WAC 388-865-0464](#).

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0240, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0245 Administration of the Involuntary Treatment Act. The regional support network must establish policies and procedures for administration of the involuntary treatment program, including investigation, detention, transportation, court related and other services required by chapter 71.05 and 71.34 RCW. This includes:

(1) Designating mental health professionals to perform the duties of involuntary investigation and detention in accordance with the requirements of chapter 71.05 and 71.34 RCW.

(2) Documenting consumer compliance with the conditions of less restrictive alternative court orders by:

(a) Ensuring periodic evaluation of each committed consumer for release from or continuation of an involuntary treatment order. Evaluations must be recorded in the clinical record, and must occur at least monthly for ninety and one hundred eighty-day commitments.

(b) Notifying the county designated mental health professional if noncompliance with the less restrictive order impairs the individual sufficiently to warrant detention or evaluation for detention and petitioning for revocation of the less restrictive alternative court order.

(3) Ensuring that when a peace officer or county designated mental health professional escorts a consumer to a facility, the county designated mental health professional must take reasonable precautions to safeguard the consumer's property including:

(a) Safeguarding the consumer's property in the immediate vicinity of the point of apprehension;

(b) Safeguarding belongings not in the immediate vicinity if there may be possible danger to those belongings;

(c) Taking reasonable precautions to lock and otherwise secure the consumer's home or other property as soon as possible after the consumer's initial detention.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0245, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0250 Ombuds services. The regional support network must provide unencumbered access to and maintain the independence of the ombuds service as set forth in this section and in the agreement between mental health division and the regional support network. The mental health division and the regional support network must include representatives of consumer and family advocate organizations when revising the terms of the agreement regarding the requirements of this section. Ombuds members must be current consumers of the mental health system, past consumers or family members. The regional support network must maintain an ombuds service that:

(1) Is responsive to the age and demographic character of the region and assists and advocates for consumers with resolving complaints and grievances at the lowest possible level;

(2) Is independent of service providers;

(3) Receives and investigates consumer, family member, and other interested party complaints and grievances;

(4) Is accessible to consumers, including a toll-free, independent phone line for access;

(5) Is able to access service sites and records relating to the consumer with appropriate releases so that it can reach out to consumers, and resolve complaints and/or grievances;

(6) Receives training and adheres to confidentiality consistent with this chapter and chapter 71.05, 71.24, and 70.02 RCW;

(7) Continues to be available to investigate, advocate and assist the consumer through the grievance and administrative hearing processes;

(8) Involves other persons, at the consumer's request;

(9) Assists consumers in the pursuit of formal resolution of complaints;

(10) If necessary, continues to assist the consumer through the fair hearing processes;

(11) Coordinates and collaborates with allied systems' advocacy and ombuds services to improve the effectiveness of advocacy and to reduce duplication of effort for shared clients;

(12) Provides information on grievance experience to the regional support network and mental health division quality management process; and

(13) Provides reports and formalized recommendations at least biennially to the mental health division and regional support

network advisory and governing boards, quality review team, local consumer and family advocacy groups, and provider network.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0250, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0255 Consumer grievance process. The regional support network must develop a process for reviewing consumer complaints and grievances. A complaint is defined as a verbal statement of dissatisfaction with some aspect of mental health services. A grievance is a written request that a complaint be heard and adjudicated, usually undertaken after attempted resolution of a complaint fails. The process must be submitted to the mental health division for written approval and incorporation into the agreement between the regional support network and the mental health division. The process must:

- (1) Be age, culturally and linguistically competent;
- (2) Ensure acknowledgment of receipt of the grievance the following working day. This acknowledgment may be by telephone, with written acknowledgment mailed within five working days;
- (3) Ensure that grievances are investigated and resolved within thirty days. This timeframe can be extended by mutual written agreement, not to exceed ninety days;
- (4) Be published and made available to all current or potential users of publicly funded mental health services and advocates in language that is clear and understandable to the individual;
- (5) Encourage resolution of complaints at the lowest level possible;
- (6) Include a formal process for dispute resolution;
- (7) Include referral of the consumer to the ombuds service for assistance at all levels of the grievance and fair hearing processes;
- (8) Allow the participation of other people, at the grievant's choice;
- (9) Ensure that the consumer is mailed a written response within thirty days from the date a written grievance is received by the regional support network;
- (10) Ensure that grievances are resolved even if the consumer is no longer receiving services;
- (11) Continue to provide mental health services to the grievant during the grievance and fair hearing process;
- (12) Ensure that full records of all grievances are kept for five years after the completion of the grievance process in confidential files separate from the grievant's clinical record. These records must not be disclosed without the consumer's written permission, except as necessary to resolve the grievance or to DSHS if a fair hearing is requested;
- (13) Provide for follow-up by the regional support network to assure that there is no retaliation against consumers who have filed a grievance;
- (14) Make information about grievances available to the

regional support network;

(15) Inform consumers of their right to file an administrative hearing with DSHS without first accessing the contractor's grievance process. Consumers must utilize the regional support network grievance process prior to requesting disenrollment;

(16) Inform consumers of their right to use the DSHS prehearing and administrative hearing processes as described in [chapter 388-02 WAC](#). Consumers have this right when:

(a) The consumer believes there has been a violation of DSHS rule;

(b) The regional support network did not provide a written response within thirty days from the date a written request was received;

(c) The regional support network, mental health prepaid health plan, the department of social and health services, or a provider denies services.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0255, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0260 Mental health professionals and specialists.

The regional support network must assure sufficient numbers of mental health professionals and specialists are available in the service area to meet the needs of eligible consumers. The regional support network must:

(1) Document efforts to acquire the services of the required mental health professionals and specialists;

(2) Ensure development of a training program using in-service training or outside resources to assist service providers to acquire necessary skills and experience to serve the needs of the consumer population;

(3) If more than five hundred persons in the total population in the regional support network geographic area report in the U.S. census that they belong to racial/ethnic groups as defined in [WAC 388-865-0150](#), the regional support network must contract or otherwise establish a working relationship with the required specialists to:

(a) Provide all or part of the treatment services for these populations; or

(b) Supervise or provide consultation to staff members providing treatment services to these populations.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0260, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0265 Mental health professional -- Exception. The regional support network may request an exception of the requirements of a mental health professional for a person with less than a masters degree level of training. The mental health division may grant an exception of the minimum requirements on a time-limited basis and only with a demonstrated need for an exception

under the following conditions:

(1) The regional support network has made a written request for an exception including:

- (a) Demonstration of the need for an exception;
- (b) The name of the person for whom an exception is being requested;
- (c) The functions which the person will be performing;
- (d) A statement from the regional support network that the person is qualified to perform the required functions based on verification of required education and training, including:
 - (i) Bachelor of Arts or Sciences degree from an accredited college or university;
 - (ii) Course work or training in making diagnoses, assessments, and developing treatment plans; and
 - (iii) Documentation of at least five years of direct treatment of persons with mental illness under the supervision of a mental health professional.

(2) The regional support network assures that periodic supervisory evaluations of the individual's job performance are conducted;

(3) The regional support network submits a plan of action to assure the individual will become qualified no later than two years from the date of exception. The regional support network may apply for renewal of the exception. The exception may not be transferred to another regional support network or to use for an individual other than the one named in the exception;

(4) If compliance with this rule causes a disproportionate economic impact on a small business as defined in the Regulatory Fairness Act, [chapter 19.85 RCW](#), and the business does not contract with a regional support network, the small business may request the exception directly from the mental health division.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0265, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0270 Financial management. The regional support network must be able to demonstrate that it ensures the effectiveness and cost effectiveness of community mental health services. The regional support network must:

(1) Spend funds received by the mental health division in accordance with its contract and to meet the requirements of chapter 71.05, 71.24, 71.34 RCW, and the State Appropriations Act;

(2) Use accounting procedures that are consistent with applicable state and federal requirements and generally accepted accounting principles (GAAP), with the following additional requirements:

(a) Include as assets all property, equipment, vehicles, buildings, capital reserve funds, operating reserve funds, risk reserve funds, or self-insurance funds.

(b) Interest accrued on funds stated in this section must be accounted for and kept for use by the regional support network.

(c) Property, equipment, vehicles, and buildings must be

properly inventoried with a physical inventory conducted at least every two years.

(d) Proceeds from the disposal of any assets must be retained by the regional support network for purposes of subsection (1) of this section.

(3) Comply with the 1974 county maintenance of effort requirement for administration of the Involuntary Treatment Act ([chapter 71.05 RCW](#)) and 1990 county maintenance of effort requirement for community programs for adults consistent with [RCW 71.24.160](#), and in the case of children, no state funds shall replace local funds from any source used to finance administrative costs for involuntary commitment procedures conducted prior to January 1, 1985 ([chapter 71.34 RCW](#));

(4) Maintain accounting procedures to ensure that accrued interest and excess reserve balances are returned to the regional support network for use in the public mental health system.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0270, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0275 Management information system. The regional support network must be able to demonstrate that it collects and manages information that shows the effectiveness and cost effectiveness of mental health services. The regional support network must:

(1) Operate an information system and ensure that information about consumers who receive publicly funded mental health services is reported to the state mental health information system according to mental health division guidelines.

(2) Ensure that the information reported is:

(a) Sufficient to produce accurate regional support network reports; and

(b) Adequate to locate case managers in the event that a consumer requires treatment by a service provider that would not normally have access to treatment information about the consumer.

(3) Ensure that information about consumers is shared or released between service providers only in compliance with state statutes (see chapter 70.02, 71.05, and 71.34 RCW) and this chapter. Information about consumers and their individualized crisis plans must be available:

(a) Twenty-four hours a day, seven days a week to county-designated mental health professionals and inpatient evaluation and treatment facilities, as consistent with confidentiality statutes; and

(b) To the state and regional support network staff as required for management information and program review.

(4) Maintain on file a statement signed by regional support network, county or service provider staff having access to the mental health information systems acknowledging that they understand the rules on confidentiality and will follow the rules.

(5) Take appropriate action if a subcontractor or regional support network employee willfully releases confidential

information, as required by [chapter 71.05 RCW](#).

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0275, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0280 Quality management process. The regional support network must implement a process for continuous quality improvement in the delivery of culturally competent mental health services. The regional support network must submit a quality management plan as part of the written biennial plan to the mental health division for approval. All changes to the quality management plan must be submitted to the mental health division for approval prior to implementation. The plan must include:

(1) Roles, structures, functions and interrelationships of all the elements of the quality management process, including but not limited to the regional support network governing board, clinical and management staff, advisory board, ombuds service, and quality review teams.

(2) Procedures to ensure that quality management activities are effectively and efficiently carried out with clear management and clinical accountability, including methods to:

(a) Collect, analyze and display information regarding:

(i) The capacity to manage resources and services, including financial and cost information and compliance with statutes, regulations and agreements;

(ii) System performance indicators;

(iii) Quality and intensity of services;

(iv) Incorporation of feedback from consumers, allied service systems, community providers, ombuds and quality review team;

(v) Clinical care and service utilization including consumer outcome measures; and

(vi) Recommendations and strategies for system and clinical care improvements, including information from exit interviews of consumers and practitioners.

(b) Monitor management information system data integrity;

(c) Monitor complaints, grievances and adverse incidents for adults and children;

(d) Monitor contracts with contractors and to notify the mental health division of observations and information indicating that providers may not be in compliance with licensing or certification requirements;

(e) Immediately investigate and report allegations of fraud and abuse of the contractor or subcontractor to the mental health division;

(f) Monitor delegated administrative activities;

(g) Identify necessary improvements;

(h) Interpret and communicate practice guidelines to practitioners;

(i) Implement change;

(j) Evaluate and report results;

(k) Demonstrate use of all corrective actions to improve the system;

(1) Consider system improvements based on recommendations from all on-site monitoring, evaluation and accreditation/certification reviews;

(m) Review update, and make the plan available to community stakeholders.

(3) Targeted improvement activities, including:

(a) Performance measures that are objective, measurable, and based on current knowledge/best practice including at least those defined by the mental health division in the agreement with the regional support network;

(b) An analysis of consumer care covering a representative sample of at least ten percent of consumers or five hundred consumers, whichever is smaller;

(c) Efficient use of human resources; and

(d) Efficient business practices.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0280, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0282 Quality review teams. The regional support network must establish and maintain unencumbered access to and maintain the independence of a quality review team as set forth in this section and in the agreement between mental health division and the regional support network. The quality review team must include current consumers of the mental health system, past consumers or family members. The regional support network must assure that quality review teams:

(1) Fairly and independently review the performance of the regional support network and service providers to evaluate systemic customer service issues as measured by objective indicators of consumer outcomes in rehabilitation, recovery and reintegration into the mainstream of social, employment and educational choices, including:

(a) Quality of care;

(b) The degree to which services are consumer-focused/directed and are age and culturally competent;

(c) The availability of alternatives to hospitalization, cross-system coordination and range of treatment options; and

(d) The adequacy of the regional support network's cross system linkages including, but not limited to schools, state and local hospitals, jails and shelters.

(2) Have the authority to enter and monitor any agency providing services for area regional support network consumers, including state and community hospitals, freestanding evaluation and treatment facilities, and community support service providers;

(3) Meet with interested consumers and family members, allied service providers, including state or community psychiatric hospitals, regional support network contracted service providers, and persons that represent the age and ethnic diversity of the regional support network to:

(a) Determine if services are accessible and address the needs of consumers based on sampled individual recipient's perception of

services using a standard interview protocol developed by the mental health division. The protocol will query the sampled individuals regarding ease of accessing services, the degree to which services address medically necessary needs (acceptability), and the benefit of the service received; and

(b) Work with interested consumers, service providers, the regional support network, and DSHS to resolve identified problems.

(4) Provide reports and formalized recommendations at least biennially to the mental health division, the mental health advisory committee and the regional support network advisory and governing boards and ensure that input from the quality review team is integrated into the overall regional support network quality management process, ombuds services, local consumer and family advocacy groups, and provider network; and

(5) Receive training and adhere to confidentiality standards.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0282, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0284 Standards for contractors and subcontractors.

The regional support network must not subcontract for clinical services to be provided using state funds unless the subcontractor is licensed and/or certified by the mental health division for those services or is personally licensed by the department of health as defined in chapter 48.43, 18.57, 18.71, 18.83, or 18.79 RCW. The regional support network must:

(1) Require and maintain documentation that contractors and subcontractors are licensed, certified, or registered in accordance with state or federal laws;

(2) Follow applicable requirements of the regional support network agreement with the mental health division;

(3) Demonstrate that it monitors contracts with contractors and notifies the mental health division of observations and information indicating that providers may not be in compliance with licensing or certification requirements; and

(4) Terminate its contract with a provider if the mental health division notifies the regional support network of a provider's failure to attain or maintain licensure or certification, if applicable.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0284, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0286 Coordination with a mental health prepaid health plan. If the regional support network is not also a mental health prepaid health plan, the regional support network must ensure continuity of services between itself and the mental health prepaid health plan by maintaining a working agreement about coordination for at least the following services:

(1) Community support services;

(2) Inpatient evaluation and treatment services;

- (3) Residential services;
- (4) Transportation services;
- (5) Consumer employment services;
- (6) Administration of involuntary treatment investigation and detention services; and
- (7) Immediate crisis response after presidential declaration of a disaster.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0286, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0288 Regional support networks as a service provider. A regional support network may operate as a community support service provider under the following circumstances:

- (1) Meeting the criteria specified in [RCW 71.24.037](#) and 71.24.045;
- (2) Maintaining a current license as a community support service provider from the mental health division.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0288, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0300 Mental health prepaid health plans. A mental health prepaid health plan is an entity that contracts with the mental health division to administer mental health services for people who are eligible for the Title XIX Medicaid program. The mental health prepaid health plan must ensure services are responsive in an age and culturally competent manner to the mental health needs of its community. To be eligible for a contract as a mental health prepaid health plan, the entity must:

- (1) Provide documentation of a population base of forty-one thousand six hundred Medicaid eligible persons (covered lives) within the service area or receive approval from the mental health division based on submittal of an actuarially sound risk management profile;
- (2) Maintain certification as a regional support network or licensure by the Washington state office of the insurance commissioner as a health care service contractor under [chapter 48.44 RCW](#).

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0300, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0305 Regional support network contracting as a mental health prepaid health plan. A regional support network contracting with the mental health division as a mental health prepaid health plan must comply with all requirements for a regional support network and the additional requirements for a prepaid health plan.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0305, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0310 Mental health prepaid health plans -- Minimum standards. To be eligible for a contract, a mental health prepaid health plan must comply with all applicable federal, state, and local statutes and regulations and meet all of the minimum standards of [WAC 388-865-300](#) through 388-865-355. The mental health prepaid health plan must:

(1) Provide medically necessary mental health services that are age and culturally competent for all Medicaid recipients in the service area within a capitated rate;

(2) Provide outreach to consumers, including homeless persons and families as defined in Public Law 100-77, and home-bound individuals;

(3) Demonstrate working partnerships with tribal authorities for the delivery of services that blend with tribal values, beliefs and culture;

(4) Develop and maintain written subcontracts that clearly recognize that legal responsibility for administration of the service delivery system remains with the mental health prepaid health plan, as identified in the agreement with the mental health division;

(5) Retain responsibility to ensure that applicable standards of state and federal statute and regulations and this chapter are met even when it delegates duties to subcontractors;

(6) Ensure the protection of consumer and family rights as described in chapter 71.05 and 71.34 RCW;

(7) Ensure compliance with the following standards:

(a) [WAC 388-865-0220](#), Standards for administration;

(b) [WAC 388-865-0225](#), Resource management program;

(c) [WAC 388-865-0229](#), Inpatient services and treatment services;

(d) [WAC 388-865-0230](#), Community support services;

(e) [WAC 388-865-0250](#), Ombuds services;

(f) [WAC 388-865-0255](#), Consumer grievance process;

(g) [WAC 388-865-0260](#), Mental health professionals or specialists;

(h) [WAC 388-865-0265](#), Mental health professional -- Exception;

(i) [WAC 388-865-0270](#), Financial management;

(j) [WAC 388-865-0275](#), Management information system;

(k) [WAC 388-865-0280](#), Quality management process;

(l) [WAC 388-865-0282](#), Quality review teams; and

(m) [WAC 388-865-0284](#), Standards for contractors and subcontractors.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0310, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0315 Governing body. The mental health prepaid

health plan must establish a governing body responsible for oversight of the mental health prepaid health plan. The governing body must:

(1) Be free from conflict of interest and all appearance of conflict of interest between personal, professional and fiduciary interests of a governing body member and the best interests of the prepaid health plan and the consumers it serves.

(2) Have rules about:

(a) When a conflict of interest becomes evident;

(b) Not voting or joining a discussion when a conflict of interest is present; and

(c) When the body can assign the matter to others, such as staff or advisory bodies.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0315, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0320 Utilization management. Utilization management is the way the mental health prepaid health plan authorizes or denies mental health services, monitors services, and follows the level of care guidelines. To demonstrate the impact on enrollee access to care of adequate quality, a mental health prepaid health plan must provide utilization management of the community mental health rehabilitation services (42 C.F.R. 440) that is independent of service providers. This process must:

(1) Provide effective and efficient management of resources;

(2) Assure capacity sufficient to deliver appropriate quality and intensity of services to enrolled consumers without a wait list consistent with the agreement with the mental health division;

(3) Plan, coordinate, and authorize community support services;

(4) Ensure that services are provided according to the individual service plan;

(5) Ensure assessment and monitoring processes are in place by which service delivery capacity responds to changing needs of the community and enrolled consumers;

(6) Develop, implement, and enforce written level of care guidelines for admission, placements, transfers and discharges into and out of services. The guidelines must address:

(a) A clear process for the mental health prepaid health plan's role in the decision-making process about admission and continuing stay at various levels is available in language that is clearly understood by all parties involved in an individual consumer's care, including laypersons;

(b) Criteria for admission into various levels of care, including community support, inpatient and residential services that are clear and concrete;

(c) Methods to ensure that services are individualized to meet the needs for all Medicaid consumers served, including consumers of different ages, cultures, languages, civil commitment status, physical abilities, and unique service needs; and

(d) To the extent authorization of care at any level of care

or at continuing stay determinations is delegated, the mental health prepaid health plan retains a sufficiently strong and regular oversight role to assure those decisions are being made appropriately.

(7) Collect data that measures the effectiveness of the criteria in ensuring that all eligible people get services that are appropriate to his/her needs;

(8) Report to the mental health division any knowledge it gains that the mental health prepaid health plan or service provider is not in compliance with all state and federal laws and regulations.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0320, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0325 Risk management. The mental health prepaid health plan must:

(1) Assume the financial risk of providing community mental health outpatient rehabilitation services, community hospital services and operation of a capitated mental health managed care system for the Medicaid eligible persons in the service area;

(2) Maintain a risk reserve of annual premium payments as defined by [chapter 48.44 RCW](#) or the actuarial analysis submitted with the formal request for waiver for mental health approved by the Health Care Financing Administration. All other mental health reserves and undesignated fund balances shall be limited to no more than ten percent of annual revenues supporting the prepaid health plan's mental health program;

(3) Demonstrate solvency and manage all fiscal matters within the managed care system, including:

- (a) Current pro-forma;
- (b) Financial reports;
- (c) Balance sheets;
- (d) Revenue and expenditure; and

(e) An analysis of reserve account(s) and fund balance(s) information including a detailed composition of capital, operating, and risk reserves and or fund balances.

(4) Maintain policies for each reserve account and have a process for collecting and disbursing reserves to pay for costs incurred by the mental health prepaid health plan;

(5) Demonstrate capacity to process claims for members of the contracted provider network and any emergency service providers accessed by consumers while out of the mental health prepaid health plan service area within sixty days using methods consistent with generally accepted accounting practices;

(6) Comply with the requirements of section 1128 (b) of the Social Security Act, which prohibits making payments directly or indirectly to physicians or other providers as an inducement to reduce or limit services provided to consumers;

(7) In accordance with the Medicaid section 1915b waiver, the mental health prepaid health plan is required to pay for psychiatric inpatient services in community hospitals either

through a direct contract with community hospitals or through an agreement with the department. In the event that the mental health prepaid health plan chooses to use the department as its fiscal agent, the plan agrees to abide by all policies, rules, payment requirements, and levels promulgated by the medical assistance administration. If the plan chooses to direct contract, the plan is responsible for executing contracts for sufficient hospital capacity pursuant to a plan approved by the mental health division.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0325, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0330 Marketing/education of mental health services.

The mental health prepaid health plan must demonstrate that it provides information to eligible persons so that they are aware of available mental health services and how to access them. The mental health prepaid health plan must:

(1) Develop and submit marketing/education plan(s) and procedures to the mental health division within the timeframes in the agreement with the mental health division for approval prior to issuance. The plan shall, at a minimum, include information on the following:

- (a) Consumer rights and responsibilities;
- (b) The service recipient's right to disenroll;
- (c) Cross-system linkages;
- (d) Access to mental health services for diverse populations, including other languages than English;
- (e) Use of media;
- (f) Stigma reduction;
- (g) Subcontractor participation/involvement;
- (h) Plan for evaluation of marketing strategy;
- (i) Procedures and materials, and any revisions thereof; and
- (j) Maintain listings of mental health services with toll-free numbers in the telephone and other public directories of the service area.

(2) Describe services and hours of operations through brochures and other materials and other methods of advertising;

(3) Assure that the materials and methods are effective in reaching people who may be visually impaired, have limited comprehension of written or spoken English, or who are unable to read. At a minimum, all written materials generally available to service recipients shall be translated to the most commonly used languages in the service area;

(4) Post and otherwise make information available to consumers about ombuds services and local advocacy organizations that may assist consumers in understanding their rights;

(5) Ensure distribution of written educational material(s) to consumers, allied systems and local community resources including:

- (a) Annual brochure(s) containing educational material on major mental illnesses and the range of options for treatment, supports available in the system, including medication and formal psychotherapies, as well as alternative approaches that may be

appropriate to age, culture and preference of the service recipient;

(b) Information regarding the scope of available benefits (e.g., inpatient, outpatient, residential, employment, community support);

(c) Service locations, crisis response services; and

(d) Service recipients' responsibilities with respect to out-of-area emergency services; unauthorized care; noncovered services; complaint process, grievance procedures; and other information necessary to assist in gaining access.

(6) Ensure marketing plans, procedures and materials are accurate and do not mislead, confuse or defraud the service recipient.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0330, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0335 Consumer enrollment. (1) DSHS enrolls a Medicaid recipient in a mental health prepaid health plan when the person resides in the contracted service area;

(2) An enrolled Medicaid consumer who requests or receives medically necessary nonemergency community mental health rehabilitation services requests and receives such service from the assigned mental health prepaid health plan through authorized providers only;

(3) An enrolled Medicaid consumer does not need to request disenrollment from the mental health division when the recipient moves from one mental health prepaid health plan to another.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0335, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0340 Consumer disenrollment. (1) The mental health division must disenroll a Medicaid consumer from his/her mental health prepaid health plan only when the consumer:

(a) Loses eligibility for Title XIX Medicaid services; or

(b) Is deceased.

(2) On a case-by-case basis, the mental health division will disenroll a consumer from his/her mental health prepaid health plan when the consumer has "good cause" for disenrollment. For the purposes of this chapter, "good cause" is defined as the inability of the mental health prepaid health plan to provide medically necessary care that is reasonably available and accessible. A consumer will not be disenrolled in a mental health prepaid health plan solely due to an adverse change in the consumer's health. In determining whether the mental health prepaid health plan provides medically necessary care that is reasonably available and accessible the mental health division may consider, but is not limited to considering:

(a) The medically necessary services needed by the consumer;

(b) Whether services are or should be available to other

consumers in the mental health prepaid health plan;

(c) Attempts the consumer has made to access services in his/her assigned mental health prepaid health plan;

(d) Efforts by the assigned mental health prepaid health plan to provide the medically necessary services needed by the consumer.

(3) A consumer wishing to disenroll from his/her assigned mental health prepaid health plan must utilize the local mental health prepaid health plan grievance process prior to requesting disenrollment from the mental health division;

(4) A consumer requesting disenrollment must make a request in writing to the mental health division fair hearing coordinator. The request must include:

(a) The consumer's name, address, phone number (or number where the consumer can receive a message), and the name of the consumer's current mental health prepaid health plan;

(b) A statement outlining the reasons why the consumer believes his/her current mental health prepaid health plan does not provide medically necessary care that is reasonably available and accessible.

(5) The mental health division will make a decision within forty-five days of the request for disenrollment or within time frames prescribed by the federal Health Care Financing Administration, whichever is shorter. The mental health division will screen the request to determine if there is sufficient information upon which to base a decision;

(6) The mental health division will notify the consumer within fifteen days of receipt of the request whether or not the request contains sufficient information. If there is not sufficient information to allow the mental health division to make a decision, additional information will be requested from the consumer. The consumer will have fifteen days to provide requested information. Failure to provide additional requested information will result in denial of the disenrollment request;

(7) The mental health division will send written notice of the decision to the consumer:

(a) If a decision to disenroll is made, the mental health division will notify the consumer ten days in advance of the effective date of the proposed disenrollment, including arrangements for continued mental health services;

(b) If the consumer's request to disenroll is denied, the notice will include the consumer's right to request a fair hearing, how to request a fair hearing, and how the consumer may access ombuds services in his/her area.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0340, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0345 Choice of primary care provider. The mental health prepaid health plan must ensure that each consumer who is receiving nonemergency community mental health rehabilitation services has a primary care provider who is responsible to carry out the individualized service plan. The mental health prepaid

health plan must allow consumers, parents of consumers under the age of thirteen, and guardians of consumers of all ages to select a primary care provider from the available primary care provider staff within the mental health prepaid health plan.

(1) For an enrolled client with an assigned case manager, the case manager is the primary care provider;

(2) If the consumer does not make a choice, the mental health prepaid health plan or its designee must assign a primary care provider no later than fifteen working days after the consumer requests services;

(3) The mental health prepaid health plan or its designee must allow a consumer to change primary care providers in the first ninety days of enrollment with the mental health prepaid health plan and once during a twelve-month period for any reason;

(4) Any additional change of primary care provider during the twelve-month period may be made with documented justification at the consumer's request by:

(a) Notifying the mental health prepaid health plan (or its designee) of his/her request for a change, and the name of the new primary care provider; and

(b) Identifying the reason for the desired change.

(5) A consumer whose request to change primary care providers is denied may submit a grievance with the plan, or request an administrative hearing.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0345, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0350 Mental health screening for children. The mental health prepaid health plan is responsible for conducting mental health screening and treatment for children eligible under the federal Title XIX early and periodic screening, diagnosis, and treatment (EPSDT) program. This includes:

(1) Providing resource management services for children eligible under the federal Title XIX early and periodic screening, diagnosis, and treatment program as specified in contract with the mental health division;

(2) Developing and maintaining an oversight committee for the coordination of the early and periodic screening, diagnosis and treatment program. The oversight committee must include representation from parents of Medicaid-eligible children.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0350, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0355 Consumer request for a second opinion. An enrolled consumer in a mental health prepaid health plan must have the right to a second opinion by another participating staff in the enrolled consumer's assigned mental health prepaid health plan:

(1) When the enrolled consumer needs more information about the medical necessity of the treatment recommended by the mental

health prepaid health plan; or

(2) If the enrolled consumer believes the mental health prepaid health plan primary care provider is not authorizing medically necessary community mental health rehabilitation services.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0355, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0360 Monitoring of mental health prepaid health

plans. The mental health division will conduct an annual on-site medical audit and an administrative audit at least every two years for purposes of assessing the quality of care and conformance with the minimum standards of this section and the Title XIX Medicaid 1915(b) mental health waiver requirements. The monitoring will include a review of:

(1) The mental health prepaid health plan's conformance to monitoring its service provider network in accordance with the quality management plan approved by the mental health division that includes processes established under the Medicaid waiver for mental health services;

(2) Any direct services provided by the mental health prepaid health plan;

(3) Other provisions within the code of federal regulations for managed care entities, which may include access, quality of care, marketing, record keeping, utilization management and disenrollment functions.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0360, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0363 Coordination with the regional support

network. If the mental health prepaid health plan is not also a regional support network, the mental health prepaid health plan must ensure continuity of services between itself and the regional support network by maintaining a working agreement about coordination for at least the following services:

(1) Residential services;

(2) Transportation services;

(3) Consumer employment services;

(4) Administration of involuntary treatment investigation and detention services; and

(5) Immediate crisis response after presidential declaration of a disaster.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0363, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0365 Suspension, revocation, limitation or

restriction of a contract. The mental health division may

suspend, revoke, limit or restrict a mental health prepaid health plan contract or refuse to grant a contract for failure to conform to applicable state and federal rules and regulations or for violation of health or safety considerations.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0365, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0400 Community support service providers. The mental health division licenses and certifies community support service providers. To gain and maintain licensure or certification, a provider must meet applicable local, state and federal statutes and regulations as well as the requirements of [WAC 388-865-400](#) through 388-865-450 as applicable to services offered. The license or certificate lists service components the provider is authorized to provide to publicly funded consumers and must be prominently posted in the provider reception area. In addition, the provider must meet minimum standards of the specific service components for which licensure is being sought:

- (1) Emergency crisis intervention services;
- (2) Case management services;
- (3) Psychiatric treatment, including medication supervision;
- (4) Counseling and psychotherapy services;
- (5) Day treatment services; and/or
- (6) Consumer employment services.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0400, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0405 Competency requirements for staff. The licensed service provider must ensure that staff are qualified for the position they hold and have the education, experience, or skills to perform the job requirements. The provider must maintain documentation that:

- (1) All staff have a current Washington state department of health license or certificate or registration as may be required for their position;
- (2) Washington state patrol background checks are conducted for employees in contact with consumers consistent with [RCW 43.43.830](#);
- (3) Mental health services are provided by a mental health professional, or under the clinical supervision of a mental health professional;
- (4) Staff performing mental health services (not including crisis telephone) must have access to consultation with a psychiatrist or a physician with at least one year's experience in the direct treatment of persons who have a mental or emotional disorder;
- (5) Mental health services to children, older adults, ethnic minorities or persons with disabilities must be provided by, under the supervision of, or with consultation from the appropriate

mental health specialist(s) when the consumer:

- (a) Is a child as defined in [WAC 866-865-0150](#);
- (b) Is or becomes an older person as defined in [WAC 388-865-0150](#);
- (c) Is a member of a racial/ethnic group as defined in [WAC 866-865-0105](#) and as reported:
 - (i) In the consumer's demographic data; or
 - (ii) By the consumer or others who provide active support to the consumer; or
 - (iii) Through other means.
- (d) Is disabled as defined in [WAC 388-865-0150](#) and as reported:
 - (i) In the consumer's demographic data; or
 - (ii) By the consumer or others who provide active support to the consumer; or
 - (iii) Through other means.
- (6) Staff receive regular supervision and an annual performance evaluation; and
- (7) An individualized annual training plan must be implemented for each direct service staff person and supervisor in the skills he or she needs for his/her job description and the population served.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0405, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0410 Consumer rights. (1) The provider must document that consumers, prospective consumers, or legally responsible others are informed of consumer rights at admission to community support services in a manner that is understandable to the individual. Consumer rights must be written in alternative format for consumers who are blind or deaf, and must also be translated to the most commonly used languages in the service area consistent with WA 388-865-0260(3);

(2) The provider must post a written statement of consumer rights in public areas, with a copy available to consumers on request. Providers of telephone only services (e.g., crisis lines) must post the statement of consumer rights in a location visible to staff and volunteers during working hours;

(3) The provider must develop a statement of consumer rights that incorporates the following statement or a variation approved by the mental health division: "You have the right to:

- (a) Be treated with respect, dignity and privacy;
- (b) Develop a plan of care and services which meets your unique needs;
- (c) The services of a certified language or sign language interpreter and written materials and alternate format to accommodate disability consistent with Title VI of the Civil Rights Act;
- (d) Refuse any proposed treatment, consistent with the requirements in chapter 71.05 and 71.34 RCW;
- (e) Receive care which does not discriminate against you, and

is sensitive to your gender, race, national origin, language, age, disability, and sexual orientation;

(f) Be free of any sexual exploitation or harassment;

(g) Review your clinical record and be given an opportunity to make amendments or corrections;

(h) Receive an explanation of all medications prescribed, including expected effect and possible side effects;

(i) Confidentiality, as described in chapters 70.02, 71.05, and 71.34 RCW and regulations;

(j) All research concerning consumers whose cost of care is publicly funded must be done in accordance with all applicable laws, including DSHS rules on the protection of human research subjects as specified in [chapter 388-04 WAC](#);

(k) Make an advance directive, stating your choices and preferences regarding your physical and mental health treatment if you are unable to make informed decisions;

(l) Appeal any denial, termination, suspension, or reduction of services and to continue to receive services at least until your appeal is heard by a fair hearing judge;

(m) If you are Medicaid eligible, receive all service which are medically necessary to meet your care needs. In the event that there is a disagreement, you have the right to a second opinion from a provider within the regional support network about what services are medically necessary;

(n) Lodge a complaint with the ombuds, regional support network, or provider if you believe your rights have been violated. If you lodge a complaint or grievance, you must be free of any act of retaliation. The ombuds may, at your request, assist you in filing a grievance. The ombuds' phone number is:_____."

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0410, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0415 Access to services. The community support service provider must document and otherwise ensure that eligible consumers have access to age and culturally competent services when and where those services are needed. The provider must:

(1) Identify and reduce barriers to people getting the services where and when they need them;

(2) Comply with the Americans with Disabilities Act and the Washington State Antidiscrimination Act, [chapter 49.60 RCW](#);

(3) Assure that services are timely, appropriate and sensitive to the age, culture, language, gender and physical condition of the consumer;

(4) Provide alternative service delivery models to make services more available to underserved persons as defined in [WAC 388-865-0150](#);

(5) Provide access to telecommunication devices or services and certified interpreters for deaf or hearing impaired consumers and limited English proficient consumers;

(6) Bring services to the consumer or locate services at sites where transportation is available to consumers; and

(7) Ensure compliance with all state and federal nondiscrimination laws, rules and plans.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0415, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0420 Intake evaluation. The community support service provider must complete an intake evaluation in collaboration with the consumer within fourteen days of admission to service. If seeking this information presents a barrier to service, the item may be left incomplete provided that the reasons are documented in the clinical record. The following must be documented in the consumer's intake evaluation:

- (1) A consent for treatment or copy of detention or involuntary treatment order;
- (2) Consumer strengths, needs and desired outcomes in their own words. At the consumer's request also include the input of people who provide active support to the consumer;
- (3) The consumer's age, culture/cultural history, and disability;
- (4) History of substance use and abuse or other co-occurring disorders;
- (5) Medical and mental health services history and a list of medications used;
- (6) For children:
 - (a) Developmental history; and
 - (b) Parent's goals and desired outcomes.
- (7) Sufficient information to justify the diagnosis;
- (8) Review of the intake evaluation by a mental health professional.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0420, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0425 Individual service plan. Community support service providers must provide consumers with an individual service plan that meets his or her unique needs. Individualized and tailored care is a planning process that may be used to develop a consumer-driven, strength-based, individual service plan. The individual service plan must:

- (1) Be developed collaboratively with the consumer and other people identified by the consumer within thirty days of starting community support services. The service plan should be in language and terminology that is understandable to consumers and their family, and include goals that are measurable;
- (2) Address age, cultural, or disability issues of the consumer;
- (3) Include measurable goals for progress toward rehabilitation, recovery and reintegration into the mainstream of social, employment and educational choices, involving other systems when appropriate;

(4) Demonstrate that the provider has worked with the consumer and others at the consumer's request to determine his/her needs in the following life domains:

- (a) Housing;
- (b) Food;
- (c) Income;
- (d) Health and dental care;
- (e) Transportation;
- (f) Work, school or other daily activities;
- (g) Social life; and
- (h) Referral services and assistance in obtaining supportive services appropriate to treatment, such as substance abuse treatment.

(5) Document review by the person developing the plan and the consumer. If the person developing the plan is not a mental health professional, the plan must also document review by a mental health professional. If the person developing the plan is not a mental health specialist required per [WAC 388-865-405](#)(5) there must also be documented consultation with the appropriate mental health specialist(s);

(6) Document review and update at least every one hundred eighty days or more often at the request of the consumer;

(7) In the case of children:

(a) Be integrated with the individual education plan from the education system whenever possible;

(b) If the child is under three, the plan must be integrated with the individualized family service plan (IFSP) if this exists, consistent with Title 20, Section 1436.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0425, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0430 Clinical record. The community support service provider must maintain a clinical record for each consumer and safeguard the record against loss, defacement, tampering, or use by unauthorized persons. The clinical record must contain:

- (1) An intake evaluation;
- (2) Evidence that the consumer rights statement was provided to the consumer;
- (3) A copy of any advance directives, powers of attorney or letters of guardianship provided by the consumer;
- (4) The crisis treatment plan when appropriate;
- (5) The individualized service plan and all changes in the plan;
- (6) Documentation that services are provided by or under the clinical supervision of a mental health professional;
- (7) Documentation that services are provided by, or under the clinical supervision, or the clinical consultation of a mental health specialist. Consultation must occur within thirty days of admission and periodically thereafter as specified by the mental health specialist;
- (8) Periodic documentation of the course of treatment and

objective progress toward established goals for rehabilitation, recovery and reintegration into the mainstream of social, employment and educational choices;

(9) A notation of extraordinary events affecting the consumer;

(10) Documentation of mandatory reporting of abuse, neglect, or exploitation of consumers consistent with chapter 26.44 and 74.34 RCW;

(11) Documentation of informed consent to treatment and medications by the consumer or legally responsible other;

(12) Documentation of confidential information that has been released without the consent of the consumer including, but not limited to provisions in [RCW 70.02.050](#), 71.05.390 and 71.05.630.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0430, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0435 Consumer access to their clinical record. The service provider must provide access to clinical records for consumers, their designated representative, and/or the person legally responsible for the consumer, consistent with chapter 71.05, 70.02, and 71.34 RCW and [RCW 13.50.400](#) (4)(b) for children. The provider must:

(1) Make the record available within fifteen days;

(2) Review the clinical record to identify and remove any material confidential to another person, agency, provider or reports not originated by the community support service provider;

(3) Allow the consumer appropriate time and privacy to review the clinical record;

(4) Provide a clinical staff member to answer questions at the request of the consumer; and

(5) Charge for copying at a rate not higher than that defined in [RCW 70.02.010](#)(12).

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0435, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0436 Clinical record access procedures. The community support service provider must develop policies and procedures to protect information and to ensure that information about consumers is shared or released only in compliance with state and federal law (see chapter 70.02, 71.05, 71.34, 74.04 RCW and [RCW 13.50.100](#) (4)(b)) and this chapter.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0436, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0440 Availability of consumer information. (1) Consumer individualized crisis plans as provided by the consumer must be available twenty-four hours a day, seven days a week to county-designated mental health professionals, crisis teams, and voluntary and involuntary inpatient evaluation and treatment

facilities, as consistent with confidentiality statutes; and

(2) Consumer information must be available to the state and regional support network staff as required for management information, quality management and program review.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0440, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0445 Establishment of procedures to bill for services. Consumers receiving services or the parent(s) of a person under the age of eighteen, the legal guardian, or the estate of the individual is responsible for payment for services received. The provider must establish policies and procedures to:

(1) Bill all third-party payors and private pay consumers. Persons eligible for the Medicaid program are not to be billed for medically necessary covered services.

(2) Develop a written schedule of fees that considers the consumer's available income, family size, allowable deductions and exceptional circumstances:

(a) Payment must not be required from consumers whose income is below TANF standards as defined in [WAC 388-478-0020](#);

(b) The fee schedule must be posted in the agency and available to provider staff, consumers, the regional support network, and the mental health prepaid health plan.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0445, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0450 Quality management process. Community support service providers must ensure continued progress toward more effective and efficient age and culturally competent services and improved consumer satisfaction and outcomes, including objective measures of progress toward rehabilitation, recovery and reintegration into the mainstream of social, employment and educational choices by maintaining an internal quality management process. The process must:

(1) Review the services offered and provided to improve the treatment of consumers, including the quality of intake evaluations and the effectiveness of prescribed medications;

(2) Review the work of persons providing mental health services at least annually; and

(3) Continuously collect, maintain, and use information to correct deficiencies and improve services. Such data must include but is not limited to reports of serious and emergent incidents as well as grievances filed by consumers or their representatives.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0450, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0452 Emergency crisis intervention services --

Additional standards. The community support service provider that is licensed for emergency crisis intervention services must assure that required general minimum standards for community support services are met, plus the additional minimum requirements:

(1) Availability of staff to respond to crises twenty-four hours a day, seven days a week, including:

(a) Bringing services to the person in crisis when clinically indicated;

(b) Requiring that staff remain with the consumer in crisis to stabilize and support him/her until the crisis is resolved or a referral to another service is accomplished;

(c) Resolving the crisis in the least restrictive manner possible;

(d) A process to include family members, significant others, and other relevant treatment providers as necessary to provide support to the person in crisis; and

(e) Written procedures for managing assaultive and/or self-injurious patient behavior.

(2) Crisis telephone screening;

(3) Mobile outreach and stabilization services with trained staff available to provide in-home or in-community stabilization services, including flexible supports to the person where he/she lives.

(4) Provide access to necessary services including:

(a) Medical services, which means at least emergency services, preliminary screening for organic disorders, prescription services, and medication administration;

(b) Interpretive services to enable staff to communicate with consumers who have limited ability to communicate in English, or have sensory disabilities;

(c) Mental health specialists for children, elderly, ethnic minorities or consumers who are deaf or developmentally disabled;

(d) Voluntary and involuntary inpatient evaluation and treatment services, including a written protocol to assure that consumers who require involuntary inpatient services are transported in a safe and timely manner;

(e) Investigation and detention to involuntary services under [chapter 71.05 RCW](#) for adults and [chapter 71.34 RCW](#) for children who are thirteen years of age or older, including written protocols for contacting the county designated mental health professional.

(5) Document all telephone and face-to-face crisis response contacts, including:

(a) Source of referral;

(b) Nature of crisis;

(c) Time elapsed from the initial contact to face-to-face response; and

(d) Outcomes, including basis for decision not to respond in person, follow-up contacts made, and referrals made.

(6) The provider must have a written protocol for referring consumers to a voluntary or involuntary inpatient evaluation and treatment facility for admission on a seven-day-a-week, twenty-four-hour-a-day basis, including arrangements for contacting the county designated mental health professional and transporting

consumers.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0452, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0454 Provider of crisis telephone services only.

This section applies only to organizations that receive public mental health funds for the purpose of providing crisis telephone services but are not licensed community support providers. In order to be licensed to provide crisis telephone services, the following requirements must be met:

- (1) Staff available to respond to crisis calls twenty-four hours a day, seven days a week;
- (2) The agency must assure communication and coordination with the consumer's case manager or primary care provider;
- (3) The agency must assure that staff are aware of and protect consumer rights as described in [WAC 388-865-0410](#);
- (4) The following sections of WAC subsections apply:
 - (a) [WAC 388-865-0405](#), Competency requirements for staff;
 - (b) [WAC 388-865-0410](#), Consumer rights;
 - (c) [WAC 388-865-0440](#), Availability of consumer information;
 - (d) [WAC 388-865-0450](#), Quality management process;
 - (e) [WAC 388-865-0452](#) (6)(a) thru (d), Emergency crisis intervention services--Additional standards;
 - (f) [WAC 388-865-0468](#), The process for licensing service providers;
 - (g) [WAC 388-865-0472](#), Licensing categories;
 - (h) [WAC 388-865-0474](#), Fees for community support licensure;
 - (i) [WAC 388-865-0476](#), Licensure based on deemed status;
 - (j) [WAC 388-865-0478](#), Renewal of the provider license;
 - (k) [WAC 388-865-0480](#), Procedures to suspend or revoke a license;
 - (l) [WAC 388-865-0482](#), Procedures to contest a licensing decision.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0454, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0456 Case management services -- Additional standards.

The community support service provider for case management services must assure that all general minimum standards for community support services and are met, plus the following additional minimum requirements:

- (1) Assist consumers to achieve the goals stated in their individualized service plan;
- (2) Support consumer employment, education or participation in other daily activities appropriate to their age and culture;
- (3) Make referrals to other needed services and supports, including treatment for co-occurring disorders and health care;
- (4) Assist consumers to resolve crises in least-restrictive settings;

(5) Provide information and education about the consumer's illness so the consumer and family and natural supports are engaged to help consumers manage the consumer's symptoms;

(6) Include, as necessary, flexible application of funds, such as rent subsidies, rent deposits, and in-home care to enable stable community living.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0456, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0458 Psychiatric treatment, including medication supervision -- Additional standards. The licensed community support service provider for psychiatric treatment, including medication supervision must meet all general minimum standards for community support in addition to the following minimum requirements:

(1) Document the assessment and prescription of psychotropic medications appropriate to the needs of the consumer. Document that consumers and, as appropriate, family members are informed about the medication and possible side effects in language that is understandable to the consumer, and referred to other health care facilities for treatment of nonpsychiatric conditions;

(2) Provider staff must inspect and inventory medication storage areas at least quarterly:

(a) Medications must be kept in locked, well-illuminated storage;

(b) Medications kept in a refrigerator containing other items must be kept in a separate container with proper security;

(c) No outdated medications must be retained, and medications must be disposed of in accordance with regulations of the state board of pharmacy;

(d) Medications for external use must be stored separately from oral and injectable medications;

(e) Poisonous external chemicals and caustic materials must be stored separately.

(3) Medical direction and responsibility is assigned to a physician who is licensed to practice under chapter 18.57 or 18.71 RCW, and is board-certified or -eligible in psychiatry;

(4) Medications are only prescribed and administered by persons consistent with their license and related requirements;

(5) Medications are reviewed at least every three months;

(6) Medication information is maintained in the clinical record and documents at least the following for each prescribed medication:

(a) Name and purpose of medication;

(b) Dosage and method of giving medication;

(c) Dates prescribed, reviewed, and renewed;

(d) The effects, interactions, and side effects the staff observes or the consumer reports spontaneously or as the result of questions from the staff;

(e) Any laboratory findings;

(f) Reasons for changing or stopping the medication; and

(g) Name and signature of prescribing person.

(7) Assessment and appropriate referrals to or consultation with a physician or other health care provider when physical health problems are suspected or identified;

(8) Address current medical concerns consistent with the individualized service plan;

(9) If the service provider is unable to employ or contract with a psychiatrist, a physician without board eligibility in psychiatry may be utilized, provided that:

(a) Psychiatrist consultation is provided to the physician at least monthly; and

(b) A psychiatrist is accessible in person, by telephone, or by radio communication to the physician for emergency consultation.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0458, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0460 Counseling and psychotherapy services -- Additional standards. The licensed community support service provider for counseling and psychotherapy services must assure that all general minimum standards for community support are met.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0460, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0462 Day treatment services -- Additional standards. The licensed community support service provider for day treatment services must assure that all general minimum standards for community support are met. Day treatment services are defined as work or other activities of daily living for consumers:

(1) Services for adults include:

- (a) Training in basic living and social skills;
- (b) Supported work and preparation for work;
- (c) Vocational rehabilitation;
- (d) Day activities; and, if appropriate;
- (e) Counseling and psychotherapy services.

(2) Services for children include:

- (a) Age-appropriate living and social skills;
- (b) Educational and pre-vocational services;
- (c) Day activities; and
- (d) Counseling and psychotherapy services.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0462, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0464 Consumer employment services -- Additional standards. The community support service provider licensed for employment services must assure that all general minimum standards for community support are met, plus the following additional minimum requirements:

(1) Assist consumers to achieve the goals stated in his/her individualized service plan and provide access to employment opportunities, including:

(a) A vocational assessment of work history, skills, training, education, and personal career goals;

(b) Information about how employment will affect income and benefits the consumer is receiving because of their disability;

(c) Active involvement with consumers served in creating and revising individualized job and career development plans;

(d) Assistance in locating employment opportunities that are consistent with the consumer's skills, goals, and interests;

(e) Integrated supported employment, including outreach/job coaching and support in a normalized or integrated work site, if required; and

(f) Interaction with the consumer's employer to support stable employment and advise about reasonable accommodation in keeping with the Americans with Disabilities Act (ADA) of 1990, and the Washington State Antidiscrimination law.

(2) Pay consumers according to the Fair Labor Standards Act; and ensure safety standards that comply with local and state regulations are in place if the provider employs consumers as part of the pre-vocational or vocational program;

(3) Coordinate efforts with other rehabilitation and employment services, such as:

(a) The division of vocational rehabilitation;

(b) The state employment services;

(c) The business community; and

(d) Job placement services within the community.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0464, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0466 Community support outpatient certification -- Additional standards.

In order to provide services to consumers on a less restrictive alternative court order, providers must be licensed to provide the psychiatric and medical service component of community support services and be certified by the mental health division to provide involuntary treatment services consistent with [WAC 388-865-0484](#). In addition, the provider must:

(1) Document in the consumer clinical record and otherwise ensure:

(a) Detained and committed consumers are advised of their rights under chapter 71.05 or 71.34 RCW and as follows:

(i) To receive adequate care and individualized treatment;

(ii) To make an informed decision regarding the use of antipsychotic medication and to refuse medication beginning twenty-four hours before any court proceeding that the consumer has the right to attend;

(iii) To maintain the right to be presumed competent and not lose any civil rights as a consequence of receiving evaluation and treatment for a mental disorder;

(iv) Of access to attorneys, courts, and other legal redress;

(v) To have the right to be told statements the consumer makes may be used in the involuntary proceedings; and

(vi) To have the right to have all information and records compiled, obtained, or maintained in the course of treatment kept confidential as defined in chapter 71.05 and 71.34 RCW.

(b) A copy of the less restrictive alternative court order and any subsequent modifications are included in the clinical record;

(c) Development and implementation of an individual service plan which addresses the conditions of the less restrictive alternative court order and a plan for transition to voluntary treatment;

(d) That the consumer receives psychiatric treatment including medication management for the assessment and prescription of psychotropic medications appropriate to the needs of the consumer. Such services must be provided:

(i) At least weekly during the fourteen-day period;

(ii) Monthly during the ninety-day and one-hundred eighty day periods of involuntary treatment unless the attending physician determines another schedule is more appropriate, and they record the new schedule and the reasons for it in the consumer's clinical record.

(2) Maintain written procedures for managing assaultive and/or self-destructive patient behavior, and provide training to staff in these interventions;

(3) Have a written protocol for referring consumers to an inpatient evaluation and treatment facility for admission on a seven-day-a-week, twenty-four-hour-a-day basis;

(4) For consumers who require involuntary detention the protocol must also include procedures for:

(a) Contacting the county designated mental health professional regarding revocations and extension of less restrictive alternatives, and

(b) Transporting consumers.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0466, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0468 Emergency crisis intervention services

certification -- Additional standards. In order to provide emergency services to a consumer who may need to be detained or who has been detained, the service provider must be licensed for emergency crisis intervention services and be certified by the mental health division to provide involuntary treatment services consistent with [WAC 388-865-0484](#). In addition, the provider must:

(1) Be available seven-days-a-week, twenty-four-hours-per-day;

(2) Follow a written protocol for holding a consumer and contacting the county designated mental health professional;

(3) Provide or have access to necessary medical services;

(4) Have a written agreement with a certified inpatient evaluation and treatment facility for admission on a seven day a week, twenty four hour per day basis; and

(5) Follow a written protocol for transporting individuals to

inpatient evaluation and treatment facilities.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0468, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0470 The process for initial licensing of service providers. An applicant for a community support license must comply with the following process:

(1) Complete and submit an application form, along with the required fee to the mental health division. A copy of the application form must be provided to the area regional support network. The regional support network may make written comments to the mental health division about the provider's application for licensure. The application must indicate the service components the applicant wants to offer, as listed in [WAC 388-865-0400](#);

(2) A regional support network may submit an application to the mental health division to operate as a licensed community support service provider as defined in [WAC 388-865-0288](#);

(3) The mental health division conducts an on-site review to examine agency policies and procedures, personnel records, clinical records, financial documents, and any other information that may be necessary to confirm compliance with minimum standards of this section;

(4) The consumer chart review is conducted during a second site review within twelve months of the issuance of the provisional license for the agency or service component if the site review is being conducted in response to a license application for a new agency or a new service component in a currently licensed agency;

(5) The mental health division may include representatives of the regional support network or mental health prepaid health plan in the licensing review process. If a provider is licensed based on deemed status as outlined in [WAC 388-865-0476](#), input from the accrediting agency may be considered;

(6) The on-site review concludes with an exit conference that includes:

- (a) Discussion of findings, if any;
- (b) Statement of deficiencies requiring a plan of correction;
- (c) A plan of correction signed by the applicant agency director and the mental health division review team representative with a completion date no greater than sixty days from the date of the exit conference, unless otherwise negotiated with the review team representative. Consumer health and safety concerns may require immediate corrective action.

(7) If the provider fails to correct the deficiencies noted within the agreed-upon timeframes, licensure will be denied. The mental health division notifies the applicant in writing of the reasons for denial and the right to a review of the decision in an administrative hearing;

(8) If licensure is denied, the applicant must wait at least six months following the date of notification of denial before reapplying.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0470, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0472 Licensing categories. The mental health division assigns the community support service applicant or licensee one of the following types of licenses:

(1) Provisional license. This category is given only to a new applicant. The mental health division may grant a provisional license for up to one year if the provider, has:

(a) An acceptable detailed plan for the development and operation of the services;

(b) The availability of administrative and clinical expertise required to develop and provide the planned services;

(c) The fiscal management and existence or projection of resources to reasonably ensure stability and solvency; and

(d) A corrective action plan approved by the mental health division, if applicable, for any deficiencies.

(2) Full License. Full licensure means that the applicant or licensee is in substantial compliance with the law, applicable rules and regulations, and state minimum standards.

(3) Probationary license. The mental health division may issue a probationary license if the service provider is substantially out of compliance with the requirements of state and federal law, applicable rules and regulations and state minimum standards. The mental health division provides the service provider with a written notice of the deficiencies.

(a) If the deficiency has caused or is likely to cause serious injury, harm, impairment or death to a consumer, the deficiencies must be corrected within a timeframe specified by the mental health division;

(b) If the provider fails to complete a corrective action plan or correct deficiencies according to the corrective action plan, the license may be suspended or revoked;

(c) To regain full licensure, a service provider in probationary status must provide a written statement to the mental health division when it has made all required corrective actions and now complies with relevant federal and state law, applicable rules and regulations, and state minimum standards;

(d) The mental health division may conduct an on-site review to confirm that the corrections have been made.

(4) The mental health division may perform an onsite visit to determine the validity of a complaint or notice that a community support service provider is out of compliance with law, applicable rules and regulations, and state minimum standards.

(5) If the service provider does not demonstrate compliance with the requirements of this section, the mental health division may initiate procedures to suspend or revoke a license consistent with state and federal laws, rules and regulations consistent with the provisions of [RCW 71.24.035](#) (7) through (11) and of [43.20A.205](#).

(6) A regional support network or prepaid health plan may choose to contract with a service provider with a provisional

license, full license, or probationary license, but may not contract with a provider with a suspended or revoked license.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0472, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0474 Fees for community support service provider licensure.

(1) Fees are due with an initial application or for annual license renewal;

(2) Fees must be paid for a minimum of one year;

(3) If an application is withdrawn prior to issuance or denial, one-half of the fees may be refunded at the request of the applicant;

(4) A change in ownership requires a new license and payment of fees;

(5) Fee payments must be made by check, electronic fund transfer, or money order made payable to the mental health division;

(6) Fees will not be refunded if a license or certificate is denied, revoked, or suspended;

(7) Failure to pay fees when due will result in suspension or denial of the license;

(8) The following fees must be sent with the application for a license or renewal:

Range	Service Hours	Annual Fee
1	0-3,999	\$291.00
2	4,000-14,999	422.00
3	15,000-29,999	562.00
4	30,000-49,999	842.00
5	50,000 or more	1,030.00

(9) Annual service hours are computed on the most recent year. For new entities, annual service hours equals the projected service hours for the year of licensure. The provider must report the number of annual service hours based on the mental health division consumer information system data dictionary.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0474, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0476 Licensure based on deemed status. (1) The mental health division may deem compliance with state minimum standards and issue a community support service license based on the provider being currently accredited by a national accreditation agency recognized by and having a current agreement with the mental health division. Deeming will be in accordance with the established agreement between the mental health division and the accrediting agency.

(2) The mental health division will only grant licensure based on deemed status to providers with a full license as defined in [WAC 388-865-0472](#).

(3) Specific requirements of state regulation, contract or policy will be waived through a deeming process consistent with the working agreement between the mental health division and the accrediting agency;

(4) Specific requirements of state or federal law, or regulation will not be waived through a deeming process.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0476, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0478 Renewal of a community support service provider license.

(1) Each year the community support service provider must renew its license. The community support service provider sends the reapplication for licensure to mental health division along with the required fee.

(2) If the service provider contracts with the regional support network or prepaid health plan it must send a copy of the application to the regional support network or mental health prepaid health plan. The regional support network or mental health prepaid health plan may make written comments to the mental health division about renewing the service provider's license. They must send the service provider a copy.

(3) The mental health division considers the request for renewal, along with any recommendations from the regional support network or mental health prepaid health plan and the results of any onsite reviews completed.

(4) If the provider is in compliance with applicable laws and standards, the mental health division sends the service provider a renewed license, with a copy to the regional support network or mental health prepaid health plan if applicable.

(5) Failure to submit the annual application for renewal license and/or to pay fees when due results in expiration of the license and the provider will be placed on probationary status.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0478, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0480 Procedures to suspend, or revoke a license.

(1) The mental health division may suspend, revoke, limit or restrict the license of a community support service provider, or refuse to grant or renew a license for failure to conform to the law, applicable rules and regulations, or state minimum standards.

(2) The mental health division may suspend, revoke, limit or restrict the license of a service provider immediately if there is imminent risk to consumer health and safety.

(3) The mental health division sends a written decision to revoke, suspend, or modify the former licensure status under [RCW 43.20A.205](#), with the reasons for the decision and informing the service provider of its right to an administrative hearing. A copy of the letter will be sent to the area regional support network.

(4) A regional support network or mental health prepaid health

plan must not contract with a service provider with a suspended or revoked license.

(5) The mental health division may suspend or revoke a license when a service provider in probationary status fails to correct the health and safety deficiencies as agreed in the corrective action plan with the mental health division.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0480, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0482 Procedures to contest a licensing decision. To contest a decision by the mental health division, the service provider, regional support network, or mental health prepaid health plan must, within twenty-eight calendar days:

- (1) File a written application for a hearing with a method that shows proof of receipt to: The Board of Appeals, P.O. Box 2465, Olympia, WA 98504; and
- (2) Include in the appeal:
 - (a) The issue to be reviewed and the date the decision was made;
 - (b) A specific statement of the issue and law involved;
 - (c) The grounds for contesting a decision of the mental health division; and
 - (d) A copy of the mental health division decision that is being contested.
- (3) The appeal must be signed by the director of the service provider and include the address of the service provider.
- (4) The decision will be made following the requirements of the Administrative Procedure Act, [chapter 34.05 RCW](#) and [chapter 388-02 WAC](#).

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0482, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0484 Process to certify providers of involuntary services. In order to be certified to provide services to consumers on an involuntary basis, the provider must comply with the following process:

- (1) Be licensed as a community support provider consistent with this section or licensed as a community hospital by the department of health;
- (2) Complete and submit an application for certification to the regional support network;
- (3) The regional support network selects providers for certification and makes a request to the mental health division for certification;
- (4) The mental health division conducts an on-site review to examine agency policies and procedures, personnel records, clinical records, financial documents, and any other information that may be necessary to confirm compliance with minimum standards of this section;

(5) The mental health division grants certification based on compliance with the minimum standards of this section and [chapter 71.05 RCW](#);

(6) The certificate may be renewed annually at the request of the regional support network and the provider's continued compliance with the minimum standards of this section;

(7) The procedures to suspend or revoke a certificate are the same as outlined [WAC 388-865-0468](#);

(8) The appeal process to contest a decision of the mental health decision is the same as outlined in [WAC 388-865-0482](#).

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0484, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0500 Inpatient evaluation and treatment facilities.

The mental health division certifies facilities to provide involuntary inpatient evaluation and treatment services for more than twenty-four hours. Facilities must be certified in order to provide services to consumers who are authorized by the regional support network or mental health prepaid health plan to receive psychiatric inpatient evaluation and treatment services on an involuntary basis.

(1) The following facilities must be licensed by the department of health:

(a) General hospital;

(b) Psychiatric hospital; or

(c) Residential (nonhospital) inpatient facility such as adult residential rehabilitation centers and psychiatric institutions for children and youth.

(2) The following state psychiatric hospitals for adults or children are not licensed by the state, but certified by the Health Care Financing Administration and accredited by the Joint Commission on Accreditation of Healthcare Organizations:

(a) Eastern state hospital;

(b) Western state hospital; and

(c) Child study and treatment center.

(3) No correctional institution or facility, juvenile court detention facility, or jail may be used as an inpatient evaluation and treatment facility within the meaning of this chapter.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0500, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0501 Certification based on deemed status. (1) The mental health division may deem compliance with state minimum standards and issue an inpatient evaluation and treatment certificate based on the provider being currently accredited by a national accreditation agency recognized by and having a current agreement with the mental health division. Deeming will be in accordance with the established agreement between the mental health division and the accrediting agency;

(2) The mental health division will only grant certification based on deemed status to providers that have attained full certification as defined in [WAC 388-865-0472](#);

(3) Specific requirements of state regulation, contract or policy will be waived through a deeming process consistent with the working agreement between the mental health division and the accrediting agency;

(4) Specific requirements of state or federal law or regulation will not be waived through a deeming process.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0501, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0502 Single bed certification. At the discretion of the mental health division, an exception may be granted to allow treatment to an adult on a seventy-two hour detention or fourteen-day commitment in a facility that is not certified under [WAC 388-865-0500](#) or for a maximum of thirty days to allow a community facility to provide treatment to an adult on a ninety- or one hundred eighty-day inpatient involuntary commitment order.

(1) The regional support network or its designee must submit a written request for a single bed certification to the mental health division prior to the commencement of the order;

(2) The facility receiving the single bed certification must meet all requirements of this section unless specifically waived by the mental health division;

(3) The request for single bed certification must describe why the consumer meets at least one of the following criteria:

(a) The consumer requires services that are not available at a state psychiatric hospital; or

(b) The consumer is expected to be ready for discharge from inpatient services within the next thirty days and being at a community facility would facilitate continuity of care.

(4) The mental health division director or the director's designee makes the decision and gives written notification to the requesting regional support network in the form of a single bed certification. The single bed certification must not contradict a specific provision of federal law or state statute;

(5) The mental health division may make site visits at any time to verify that the terms of the single bed certification are being met. Failure to comply with any term of the exception certification may result in corrective action or, if the mental health division determines that the violation places consumers in imminent jeopardy, immediate revocation of the certification;

(6) Neither consumers nor facilities have fair hearing rights as defined under [chapter 388-02 WAC](#) regarding single bed certification decisions by mental health division staff.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0502, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0504 Exception to rule -- Long-term certification.

(1) At the discretion of the mental health division, a facility may be granted an exception to [WAC 388-865-0229](#) in order to allow the facility to be certified to provide treatment to adults on ninety- or one hundred eighty-day inpatient involuntary commitment orders.

(2) The exception certification may be requested by the facility, the director of the mental health division or his designee, or the RSN for the facility's geographic area.

(3) The facility receiving the exception certification for ninety- or one hundred eighty-day patients must meet all requirements found in [chapter 388-865 WAC](#) for the evaluation and treatment facility short-term inpatient component.

(4) The exception certification must be signed by the director of the mental health division. The exception certification may impose additional requirements, such as types of patients allowed and not allowed at the facility, reporting requirements, requirements that the facility immediately report suspected or alleged incidents of abuse, or any other requirements that the director of the mental health division determines are necessary for the best interests of patients.

(5) The mental health division may make unannounced site visits at any time to verify that the terms of the exception certification are being met. Failure to comply with any term of the exception certification may result in corrective action or, if the mental health division determines that the violation places patients in imminent jeopardy, immediate revocation of the certification.

(6) Neither consumers nor facilities have fair hearing rights as defined under [chapter 388-02 WAC](#) regarding the decision to grant or not to grant exception certification.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0504, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0505 Evaluation and treatment facility certification -- Minimum standards.

To gain and maintain certification to provide inpatient evaluation and treatment services under chapter 71.05 and 71.34 RCW, a facility must meet applicable local, state and federal laws and regulations including department of health licensure requirements and [WAC 388-865-500](#) through 388-865-560:

(1) Designate a physician or other mental health professional as the professional person in charge of that facility. This person must be given the authority and be responsible for:

(a) Making admission and discharge decisions on behalf of that facility;

(b) Supervision of clinical services provided by the facility; and

(c) Explore less restrictive alternatives, in considering the filing of all petitions for involuntary commitments to inpatient treatment including possible community support or residential treatment, to see if the consumer can be as well or better served,

preferably within his or her home community.

(2) Have the capability to admit consumers needing inpatient evaluation and treatment services seven days a week, twenty-four hours a day. Psychiatric institutions for children and youth are exempted from this requirement;

(3) Have at least one seclusion room meeting the requirements of [WAC 246-320-365](#) (12)(d)(ii);

(4) Assure access to necessary medical treatment, emergency life-sustaining treatment, and medication.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0505, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0510 Standards for administration. The inpatient evaluation and treatment facility must develop policies to address the following administrative requirements:

(1) Protect clinical records against loss, defacement, tampering, or use by unauthorized persons;

(2) Maintain adequate fiscal accounting records;

(3) Bill and collect payment for services from all private payors and third party payors, including Medicaid and Medicare consumers;

(4) Ensure the protection of consumer and family rights as described in this chapter and chapter 71.05 and 71.34 RCW;

(5) Maintain written protocols to physically and legally detain a consumer who refuses voluntary treatment and meets the legal criteria for involuntary commitment, including the method to contact the county designated mental health professional;

(6) Maintain written procedures for managing assaultive and/or self-injurious consumer behavior;

(7) Maintain written procedures to ensure the safety of children and adults in an inpatient evaluation and treatment facility:

(a) Adults must be separated from children who are not yet thirteen years of age;

(b) Children who have had their thirteenth birthday, but are under the age of eighteen, may be served with adults only if the child's clinical record contains a professional judgment saying that placement in an adult facility will not be harmful to the child or adult.

(8) Develop policies and procedures to inform and provide relevant information on persons who are absent from the facility without leave consistent with [RCW 71.05.410](#) and 71.05.420;

(9) Maintain written procedures to either admit all consumers who have been detained or arrange for transfer to a more appropriate facility only after it is confirmed that the facility will admit the consumer;

(10) Maintain written procedures to ensure the protection of the consumer's property including:

(a) Inventory articles brought to the facility and not kept by the consumer;

(b) Use reasonable precautions to safeguard the property of

the consumer.

(11) If the facility treats children, it must maintain written procedures to ensure that:

(a) Whenever a child is conditionally released or discharged before the end of the commitment, the professional person in charge gives the court written notice of the release within three days of the release. If the child is on a one a one hundred and eighty day commitment the children's long-term inpatient placement committee must also be notified.

(b) If the child elopes, the professional person in charge immediately notifies the parents and the appropriate law enforcement agencies.

(12) Maintain written procedures to ensure that upon discharge of a consumer of voluntary services:

(a) The consumer's permission is sought for release of a clinical summary to the community physician, psychiatrist, or therapist of his/her choice, or to the local treatment facility or licensed service provider.

(b) Information sharing complies with [RCW 71.05.390](#).

(c) The consumer is advised of his or her competency and given the following written notice: "No person is presumed incompetent nor does any person lose any civil rights as a consequence of receiving evaluation and treatment services for a mental disorder, whether voluntary or involuntary, as required by [RCW 71.05.450](#)."

(13) Maintain written procedures to ensure that the county designated mental health professional who detained a person can not also be one of the two mental health professionals who examines and evaluates a person within twenty-four hours of admission to determine what treatment he or she requires. An exception can be made only by the director or the mental health division and because no other mental health professional is reasonably available to do the necessary examination and evaluation.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0510, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0515 Admission and intake evaluation. The provider must include the following documentation in the intake evaluation:

(1) An initial treatment plan;

(2) A copy of any advance directives, powers of attorney or letters of guardianship provided by the consumer;

(3) That the consumer was advised of his/her rights;

(4) Consideration of a less restrictive treatment alternative for each patient at the time of detention, admission, and discharge;

(5) For consumers who have been involuntarily detained, evaluations to determine the nature of the disorder, the treatment necessary, and whether or not detention is required at least within twenty-four hours of the initial detention of the consumer, including Saturdays, Sundays and holidays. The evaluation must include at least a:

(a) Medical evaluation by a an appropriately licensed medical

professional within his/her scope of practice; and

(b) Psychosocial evaluation by a mental health professional.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0515, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0525 Clinical record. The treatment record for each consumer must contain:

(1) A comprehensive plan for treatment developed collaboratively with the consumer;

(2) Copies of advance directives, powers of attorney or letters of guardianship provided by the consumer.

(3) A plan for discharge including a plan for follow-up where appropriate;

(4) Sufficient information to justify the diagnosis;

(5) Documentation that the facility has provided for or arranged for diagnostic and therapeutic services prescribed by the attending professional staff. This may include participation of a multi-disciplinary team or mental health specialists as defined in [WAC 388-865-0150](#), or collaboration with members of the consumer's support system as identified by the consumer;

(6) Documentation of the course of treatment;

(7) Documentation that a mental health professional has contact with each involuntary consumer at least daily for the purpose of:

(a) Observation;

(b) Evaluation; and

(c) Continuity of treatment.

(8) Documentation that a mental health professional and licensed physician are available for consultation and communication with both the consumer and the direct patient care staff twenty-four hours a day, seven days a week;

(9) Documentation of evaluation of each involuntarily committed consumer for release from commitment at least weekly for fourteen-day commitments.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0525, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0530 Competency requirements for staff. In order to gain and maintain certification as an inpatient evaluation and treatment facility, the provider must document that staff are qualified for the position they hold and have the education, experience, or skills to perform the job requirements, including:

(1) All staff have a current Washington state department of health license or certificate or registration as may be required for his/her position;

(2) Washington state patrol background checks are conducted for employees in contact with consumers consistent with [RCW 43.43.830](#);

(3) Clinical supervisors meet the qualifications of mental

health professionals or specialists as defined in [WAC 388-865-0150](#);

(4) Staff receive an annual performance evaluation; and

(5) An individualized annual training plan must be implemented for each direct service staff person and supervisor in the skills he or she needs for his/her job description and the population they serve. Such training must include at least:

(a) Least restrictive alternative options available in the community and how to access them;

(b) Methods of patient care;

(c) Management of assaultive and self-destructive behavior; and

(d) The requirements of chapter 71.05 and 71.34 RCW, this chapter, and protocols developed by the mental health division.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0530, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0535 The process for gaining certification and renewal of certification. These processes are the same as described in [WAC 388-865-0484](#).

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0535, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0540 Fees for evaluation and treatment facility certification. Inpatient facilities certified to provide inpatient evaluation and treatment services are assessed an annual fee of thirty-two dollars per bed.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0540, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0545 Use of seclusion and restraint procedures -- Adults. Consumers have the right to be free from seclusion and restraint, including chemical restraint. The use of restraints or seclusion must occur only when there is imminent danger to self or others and less restrictive measures have been determined to be ineffective to protect the consumer or others from harm and the reasons for the determination are clearly documented. The evaluation and treatment facility must develop policies and procedures to assure that restraint and seclusion procedures are utilized only to the extent necessary to ensure the safety of patients and others:

(1) Staff must notify, and receive authorization by, a physician within one hour of initiating patient restraint or seclusion;

(2) The consumer must be informed of the reasons for use of seclusion or restraint and the specific behaviors which must be exhibited in order to gain release from these procedures;

(3) The clinical record must document staff observation of the

consumer at least every fifteen minutes and observation recorded in the consumer's clinical record;

(4) If the use of restraint or seclusion exceeds twenty-four hours, a licensed physician must assess the consumer and write a new order if the intervention will be continued. This procedure is repeated again for each twenty-four hour period that restraint or seclusion is used;

(5) All assessments and justification for the use of seclusion or restraint must be documented in the consumer's medical record.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0545, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0546 Use of seclusion and restraint procedures -- Children. Consumers have the right to be free from seclusion and restraint, including chemical restraint. The use of restraints or seclusion must occur only when there is imminent danger to self or others and less restrictive measures have been determined to be ineffective to protect the consumer or others from harm and the reasons for the determination are clearly documented. The evaluation and treatment facility must develop policies and procedures to assure that restraint and seclusion procedures are utilized only to the extent necessary to ensure the safety of patients and others:

(1) In the event of an emergency use of restraints or seclusion, a licensed physician must be notified within one hour and must authorize the restraints or seclusion;

(2) No consumer may be restrained or secluded for a period in excess of two hours without having been evaluated by a mental health professional. Such consumer must be directly observed every fifteen minutes and the observation recorded in the consumer's clinical record;

(3) If the restraint or seclusion exceeds twenty-four hours, the consumer must be examined by a licensed physician. The facts determined by his or her examination and any resultant decision to continue restraint or seclusion over twenty-four hours must be recorded in the consumer's clinical record over the signature of the authorizing physician. This procedure must be repeated for each subsequent twenty-four hour period of restraint or seclusion.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0546, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0550 Rights of all consumers who receive community inpatient services. The rights assured by [RCW 71.05.370](#) and the following rights must be prominently posted within the department or ward of the community or inpatient evaluation and treatment facility. You have the right to:

(1) Adequate care and individualized treatment.

(2) To have all information and records compiled, obtained, or maintained in the course of receiving services kept confidential,

under the provisions of [RCW 71.05.390](#), 71.05.420, and 71.34.160.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0550, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0555 Rights of consumers receiving involuntary inpatient services. Consumers who are receiving inpatient services involuntarily have the rights provided in [RCW 71.05.370](#) plus the following rights. The provider must ensure consumers are informed of his or her rights and that all consumer rights are protected, including:

(1) At admission, each consumer must be informed in writing or orally of his or her rights to have a responsible member of the immediate family if possible, guardian or conservator, if any, and such other person as designated by the consumer given written notice of the consumer's inpatient status, and his or her rights as an involuntary consumer;

(2) A medical and psychosocial evaluation within twenty-four hours of admission to determine whether continued detention in the facility is necessary;

(3) A judicial hearing before a superior court if the consumer is not released within seventy-two hours (excluding Saturdays, Sundays, and holidays), to decide if continued detention within the facility is necessary.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0555, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0557 Rights related to antipsychotic medication.

All consumers have a right to make an informed decision regarding the use of antipsychotic medication consistent with the provisions of [RCW 71.05.370](#)(7) and 71.05.215. The provider must develop and maintain a written protocol for the involuntary administration of antipsychotic medications, including the following requirements:

(1) At the time of admission inform the consumer of his or her right to:

(a) Make an informed decision regarding the use of antipsychotic medication;

(b) Refuse all treatment except lifesaving treatment beginning twenty-four hours prior to any hearing;

(c) Refuse antipsychotic medication beginning twenty-four hours before any court proceeding wherein the consumer has the right to attend and is related to his or her continued commitment;

(d) The consumer must be asked if he or she wishes to decline treatment during the twenty-four hour period, and the answer must be in writing and signed when possible. Compliance with this procedure must be documented in the consumer's clinical record.

(2) The clinical record must document:

(a) The physician's attempt to obtain informed consent;

(b) The reasons why any antipsychotic medication is administered over the consumer's objection or lack of consent.

(3) The physician may administer antipsychotic medications over a consumer's objections or lack of consent only when:

(a) An emergency exists, provided there is a review of this decision by a second physician within twenty-four hours. An emergency exists if:

(i) The consumer presents an imminent likelihood of serious harm to self or others;

(ii) Medically acceptable alternatives to administration of antipsychotic medications are not available or are unlikely to be successful; and

(iii) In the opinion of the physician, the consumer's condition constitutes an emergency requiring that treatment be instituted before obtaining an additional concurring opinion by a second physician.

(b) There is an additional concurring opinion by a second physician for treatment up to thirty days;

(c) For continued treatment beyond thirty days through the hearing on any one hundred eighty-day petition filed under [RCW 71.05.370](#)(7), provided the facility medical director or director's medical designee reviews the decision to medicate a consumer. Thereafter, antipsychotic medication may be administered involuntarily only upon order of the court. The review must occur at least every sixty days.

(4) The examining physician must sign all one hundred eighty-day petitions for antipsychotic medications files under the authority of [RCW 71.05.370](#)(7);

(5) Consumers committed for one hundred eighty days who refuse or lack the capacity to consent to antipsychotic medications have the right to a court hearing under [RCW 71.05.370](#)(7) prior to the involuntary administration of antipsychotic medications;

(6) In an emergency, antipsychotic medications may be administered prior to the court hearing provided that an examining physician files a petition for an antipsychotic medication order the next judicial day;

(7) All involuntary medication orders must be consistent with the provisions of [RCW 71.05.370](#) (7)(a) and (b), whether ordered by a physician or the court;

(8) This section does not preclude use of physical restraints and/or seclusion in compliance with [WAC 388-865-0545](#) and 388-865-0546.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0557, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0560 Rights of consumers who receive emergency and inpatient services voluntarily. (1) At admission, each consumer must be informed in writing or orally of his or her right to immediate release, and other rights as defined in this section and in [RCW 71.05.050](#) for adults and [chapter 71.34 RCW](#) for children.

(2) The following rights of voluntary consumers must be prominently displayed within the department or ward where the consumer is housed. You have the right to:

(a) Release, unless involuntary commitment proceedings are initiated.

(b) A review of condition and status at least each one hundred and eighty days as required under [RCW 71.05.050](#), 71.05.380, and 72.23.070.

(3) All voluntary consumers have the right to:

(a) Adequate care and individualized treatment;

(b) Make an informed decision about the use of antipsychotic medication.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0560, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0565 Petition for the right to possess a firearm. A person is entitled to the immediate restoration of the right to firearm possession when he or she no longer require treatment or medication for a condition related to the involuntary commitment. This is described in [RCW 9.41.040](#) (6)(c).

(1) The person who wants his or her right to possess a firearm restored may petition the court that ordered involuntary treatment or the superior court of the county in which he or she lives for a restoration of the right to possess firearms. At a minimum, the petition must include:

(a) The fact, date, and place of involuntary treatment;

(b) The fact, date, and release from involuntary treatment;

(c) A certified copy of the most recent order of commitment with the findings and conclusions of law.

(2) The person must show the court that he/she no longer require treatment or medication for the condition related to the commitment.

(3) If the court requests relevant information about the commitment or release to make a decision, the mental health professionals who participated in the evaluation and treatment must give the court that information.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0565, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0600 Purpose. In order to enhance and facilitate the department of corrections' ability to carry out its responsibility of planning and ensuring community protection, mental health records and information, as defined in this section, that are otherwise confidential shall be released by any mental health service provider to the department of corrections personnel for whom the information is necessary to carry out the responsibilities of their office as authorized in [RCW 71.05.445](#) and 71.34.225. Department of corrections personnel must use records only for the stated purpose and must assure that records remain confidential and subject to the limitations on disclosure outlined in [chapter 71.05 RCW](#), except as provided in [RCW 72.09.585](#).

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0600, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0610 Definitions. Relevant records and reports includes written documents obtained from other agencies or sources, often referred to as third-party documents, as well as documents produced by the agency receiving the request. Relevant records and reports do not include the documents restricted by either federal law or federal regulation related to treatment for alcoholism or drug dependency or the Health Insurance Portability and Accountability Act or state law related to sexually transmitted diseases, as outlined in [RCW 71.05.445](#) and 71.34.225.

(1) **"Relevant records and reports"** means:

(a) Records and reports of inpatient treatment:

(i) Inpatient psychosocial assessment - Any initial, interval, or interim assessment usually completed by a person with a master's degree in social work (or equivalent) or equivalent document as established by the holders of the records and reports;

(ii) Inpatient intake assessment - The first assessment completed for an admission, usually completed by a psychiatrist or other physician or equivalent document as established by the holders of the records and reports;

(iii) Inpatient psychiatric assessment - Any initial, interim, or interval assessment usually completed by a psychiatrist (or professional determined to be equivalent) or equivalent document as established by the holders of the records and reports;

(iv) Inpatient discharge/release summary - Summary of a hospital stay usually completed by a psychiatrist (or professional determined to be equivalent) or equivalent document as established by the holders of the records and reports;

(v) Inpatient treatment plan - A document designed to guide multi-disciplinary inpatient treatment or equivalent document as established by the holders of the records and reports;

(vi) Inpatient discharge and aftercare plan database - A document designed to establish a plan of treatment and support following discharge from the inpatient setting or equivalent document as established by the holders of the records and reports.

(b) Records and reports of outpatient treatment:

(i) Outpatient intake evaluation - Any initial or intake evaluation or summary done by any mental health practitioner or case manager the purpose of which is to provide an initial clinical assessment in order to guide outpatient service delivery or equivalent document as established by the holders of the records and reports;

(ii) Outpatient periodic review - Any periodic update, summary, or review of treatment done by any mental health practitioner or case manager. This includes, but is not limited to: documents indicating diagnostic change or update; annual or periodic psychiatric assessment, evaluation, update, summary, or review; annual or periodic treatment summary; concurrent review; individual service plan as required by [WAC 388-865-0425](#) through

388-865-0430, or equivalent document as established by the holders of the records and reports;

(iii) Outpatient crisis plan - A document designed to guide intervention during a mental health crisis or decompensation or equivalent document as established by the holders of the records and reports;

(iv) Outpatient discharge or release summary - Summary of outpatient treatment completed by a mental health professional or case manager at the time of termination of outpatient services or equivalent document as established by the holders of the records and reports;

(v) Outpatient treatment plan - A document designed to guide multi-disciplinary outpatient treatment and support or equivalent document as established by the holders of the records and reports.

(c) Records and reports regarding providers and medications:

(i) Current medications and adverse reactions - A list of all known current medications prescribed by the licensed practitioner to the individual and a list of any known adverse reactions or allergies to medications or to environmental agents;

(ii) Name, address and telephone number of the case manager or primary clinician.

(d) Records and reports of other relevant treatment and evaluation:

(i) Psychological evaluation - A formal report, assessment, or evaluation based on psychological tests conducted by a psychologist;

(ii) Neuropsychological evaluation - A formal neuropsychological report, assessment, or evaluation based on neuropsychological tests conducted by a psychologist;

(iii) Educational assessment - A formal report, assessment, or evaluation of educational needs or equivalent document as established by the holders of the records and reports;

(iv) Functional assessment - A formal report, assessment, or evaluation of degree of functional independence. This may include but is not limited to: occupational therapy evaluations, rehabilitative services database activities assessment, residential level of care screening, problem severity scale, instruments used for functional assessment or equivalent document as established by the holders of the records and reports;

(v) Forensic evaluation - An evaluation or report conducted pursuant to [chapter 10.77 RCW](#);

(vi) Offender/violence alert - A any documents pertaining to statutory obligations regarding dangerous or criminal behavior or to dangerous or criminal propensities. This includes, but is not limited to, formal documents specifically designed to track the need to provide or past provision of: duty to warn, duty to report child/elder abuse, victim/witness notification, violent offender notification, and sexual/kidnaping offender notification per [RCW 4.24.550](#), 10.77.205, 13.40.215, 13.40.217, 26.44.330, 71.05.120, 71.05.330, 71.05.340, 71.05.425, 71.09.140, and 74.34.035;

(vii) Risk assessment - Any tests or formal evaluations administered or conducted as part of a formal violence or criminal risk assessment process that is not specifically addressed in any

psychological evaluation or neuropsychological evaluation.

(e) Records and reports of legal status - Legal documents are documents filed with the court or produced by the court indicating current legal status or legal obligations including, but not limited to:

- (i) Legal documents pertaining to [chapter 71.05 RCW](#);
- (ii) Legal documents pertaining to chapter 71.34;
- (iii) Legal documents containing court findings pertaining to [chapter 10.77 RCW](#);
- (iv) Legal documents regarding guardianship of the person;
- (v) Legal documents regarding durable power of attorney;
- (vi) Legal or official documents regarding a protective payee;
- (vii) Mental health advance directive.

(2) **"Relevant information"** means descriptions of a consumer's participation in, and response to, mental health treatment and services not available in a relevant record or report, including all statutorily mandated reporting or duty to warn notifications as identified in [WAC 388-865-610](#) (1)(d)(vi), Offender/Violence alert, and all requests for evaluations for involuntary civil commitments under [chapter 71.05 RCW](#). The information may be provided in verbal or written form at the discretion of the mental health service provider.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0610, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0620 Scope. Many records and reports are updated on a regular or as needed basis. The scope of the records and reports to be released to the department of corrections are dependent upon the reason for the request.

(1) For the purpose of a pre-sentence investigation release only the most recently completed or received records of those completed or received within the twenty-four-month period prior to the date of the request; or

(2) For all other purposes release all versions of records and reports that were completed or received within the ten year period prior to the date of the request that are still available.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0620, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0630 Time frame. The mental health service provider shall provide the requested relevant records, reports and information to the authorized department of corrections person in a timely manner, according to the purpose of the request:

(1) Pre-sentence investigation - within seven calendar days of the receipt of the request. If some or all of the requested relevant records, reports and information are not available within that time period the mental health service provider shall notify the authorized department of corrections person prior to the end of the seven-day-period and provide the requested relevant records,

reports or information within a mutually agreed to time period; or

(2) All other purposes - within thirty calendar days of the receipt of the request. If some or all of the requested relevant records, reports and information are not available within that time period the mental health service provider shall notify the authorized department of corrections person prior to the end of the thirty-day period and provide the requested relevant records, reports or information within a mutually agreed to time period.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0630, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0640 Written requests. The written request for relevant records, reports and information shall include:

(1) Verification that the person for whom records, reports and information are being requested is under the authority of the department of corrections, per [chapter 9.94A RCW](#), and the expiration date of that authority.

(2) Sufficient information to identify the person for whom records, reports and information are being requested including name and other identifying data.

(3) Specification as to which records and reports are being requested and the purpose for the request.

(4) Specification as to what relevant information is requested and the purpose for the request.

(5) Identification of the department of corrections person to whom the records, reports and information shall be sent, including the person's name, title and address.

(6) Name, title and signature of the requestor and date of the request.

[Statutory Authority: [RCW 71.05.560](#), [71.24.035](#) (5)(c), [71.34.800](#), [9.41.047](#), [43.20B.020](#), and [43.20B.335](#). 01-12-047, § 388-865-0640, filed 5/31/01, effective 7/1/01.]